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By Email marty.greentree@dia.govt.nz

Confidential and Legally Privileged

Department of Internal Affairs
Building 2, 12-16 Nicholls Lane
Parnell
Auckland

AUCKLAND

Level 7, MC Centre
8 Hardinge Street
Auckland 1010

PO Box 90750
Victoria Street West
Auckland 1142
New Zealand, DX CP24063

T: +64 9 336 7500

WELLINGTON

Level 23, AON Centre
1 Willis Street
Wellington 6011

PO Box 24546
Manners Street
Wellington 6140
New Zealand

T: +64 4 914 0530

mc.co.nz

Dear Marty

Should forensic accountants and health and safety professionals be licensed under the Private Security Personnel and Private Investigators Act 2010?

1 Introduction

- 1.1 Thank you for your instructions in this matter. We understand that following its decision in *D, E & C Ltd* that workplace investigators do fall within the definition of private investigator,¹ the Private Security Personnel Licensing Authority (**Authority**) referred the following issues to you to investigate:²
- (a) Do forensic accountants and health and safety professionals fit within the definition of “private investigator” under sections 5 or 13 of the Private Security Personnel and Private Investigators Act 2010 (**PSPPIA**)?
 - (b) If so, is there any form of registration, licence or permit they might hold that would exempt them from holding a licence or certificate under s 22(d) of the PSPPIA?
- 1.2 This letter contains our advice on these matters, with reference to the two investigation reports you have provided.³
- 1.3 In summary, we consider that:
- (a) Both forensic accountants and health and safety professionals (particularly those conducting investigations), fall within the definition of “private investigator” in s 5.
 - (b) Forensic accountants who are full members of CAANZ are exempt from holding a licence or certificate of approval by virtue of s 22(d) of the PSPPIA (but may choose to hold a licence or certificate of approval in any event).

¹ *D, E & C Ltd* [2020] NZPSLA 007, attached at **Tab 1**.

² A referral to CIPU under ss 74(2) & 75(2) of the Private Security Personnel and Private Investigators Act 2010 in relation to Forensic Accountants and Chartered Members of Health and Safety Advisors New Zealand, attached at **Tab 2 [Authority Referral]**.

³ Health & Safety Professionals Investigation Report, February 2022; Forensic Accountants Investigation Report, February 2022.

- (c) There is no overarching statutory body regulating health and safety professionals which would exempt them from holding a licence or certificate of approval under s 22(d). However, individual health and safety professionals may be exempt from holding a licence under s 22(d), for instance, a lawyer with a practising certificate who also carries out health and safety investigations. For completeness, we record that HASANZ membership alone is not sufficient to exempt a health and safety professional from holding a licence or certificate of approval. Members do not hold a permit or licence under an enactment, nor do we consider that HASANZ currently provides sufficient regulatory oversight of health and safety professionals to warrant an exemption from the requirements of the PSPPIA.
- 1.4 Our conclusions align with the purpose of the PSPPIA (to help ensure that those offering investigative services to the public are suitably trained and do not behave in ways contrary to the public interest) and also the Act's origins (its predecessor statute was enacted to provide greater protection of the individual's right to privacy).
- 1.5 Our advice is structured as follows:
- (a) **Part 2** sets out the background, legislative history and purpose of the PSPPIA.
 - (b) **Part 3** canvasses the relevant provisions of the PSPPIA, including the definition of "private investigator", the licensing process as prescribed by the Act and its accompanying Regulations, and the complaints and disciplinary process.
 - (c) **Part 4** briefly summarises the Authority's decision in *D, E & C Ltd* and its implications for other professions, particularly forensic accountants and health and safety professionals.
 - (d) **Part 5** explores the types of work forensic accountants engage in and concludes that they are "private investigators" within the meaning of the PSPPIA.
 - (e) **Part 6** provides an overview of the manner in which forensic accountants are regulated before concluding that those who are full members of CAANZ are exempt from holding a licence or certificate of approval by s 22(d) of the PSPPIA.
 - (f) **Part 7** reviews the types of work health and safety professionals conduct, including the difference between investigations and audits, and concludes that those conducting investigations are "private investigators" within the meaning of the PSPPIA.
 - (g) **Part 8** explains that health and safety professionals are not regulated under another enactment, nor subject to the same level of regulation as CAANZ members, and therefore concludes that they are not exempted under s 22(d) of the PSPPIA.
 - (h) In conclusion, we note that it would be open to HASANZ and the broader health and safety profession to seek an exemption from the Governor-General through an Order in Council issued pursuant to s 12 of the PSPPIA.

2 Legislative history of PSPPIA

- 2.1 The PSPPIA was preceded by the Private Investigators and Security Guards Act 1974 (**1974 Act**), which was introduced as part of the then-government's programme "to provide greater protection of the individual's right to privacy".⁴
- 2.2 The purpose of the bill was succinctly described during its first reading by the Minister of Parliament for the Hutt electorate:⁵

⁴ (30 July 1974) 392 NZPD 3300.

The Bill also seeks to control those whose occupation requires them to inquire into and interfere with some of the private activities of individuals. The aim is to ensure that only fit and proper persons can become private investigators or security guards.

- 2.3 During that first reading, the Minister of Justice referred to the following passage from the Younger committee's report on privacy in the United Kingdom in explanation of the Bill:⁶

The work of private investigators is of exceptional concern to us because invasion of privacy is the essence of it. If privacy is to be given greater protection, it would, on the face of it, seem necessary to have special regard to persons or organisations who hold themselves out to invade privacy for reward.

- 2.4 The Private Security Personnel and Private Investigators Bill 2008 (**2008 Bill**) was introduced to Parliament with the express purpose of "reform[ing] the law relating to the private security industry and private investigators" following multiple reviews of the 1974 Act.⁷ The primary aims of the 2008 Bill were:⁸

- (a) to repeal and replace the 1974 Act;
- (b) to "clarify and extend" the licensing requirements for both private investigators, security personnel and other persons;
- (c) to extend the ambit of the 1974 Act by introducing minimum training requirements for licensed persons;
- (d) to create a "dedicated enforcement and prosecution unit" responsible for enforcing the requirements of the Act.

- 2.5 The Bill's explanatory note observed that "considerable flexibility is possible within this framework, both to accommodate possible changes in the technology and in the operating environment without needing to amend the Act".

- 2.6 The Bill received Royal assent on 20 September 2010 and came into force on 1 April 2011.⁹

3 Overview of relevant provisions of PSPPIA

Who is classed as a "private investigator"?

- 3.1 Section 5 of the PSPPIA defines "private investigator" as follows:

- (1) In this Act, private investigator means a person who, for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business seeking or obtaining for any person or supplying to any person any information described in subsection (2).
- (2) For the purposes of this section, information—
 - (a) means any information relating to—
 - (i) the personal character, actions, or behaviour of any person; or
 - (ii) the financial position of any person; or

⁵ (30 July 1974) 392 NZPD 3308.

⁶ (30 July 1974) 392 NZPD 3301.

⁷ Private Security Personnel and Private Investigators Bill 2008 (297-1) (Digest No. 1661), attached at **Tab 3**.

⁸ Private Security Personnel and Private Investigators Bill 2008 (297-1) (explanatory note), attached at **Tab 4**.

⁹ Section 2.

- (iii) the occupation or business of any person; or
 - (iv) the identity or whereabouts of any person; but
 - (b) does not include information that is contained in a public record.
- (3) For the purposes of this section but without limiting the meaning of the term carries on any business, a person is carrying on a business if he or she holds himself or herself out to the public as being ready to carry on that business.
- (4) Despite subsection (1), no person is a private investigator within the meaning of this Act by reason of the fact that—
 - (a) he or she seeks, obtains, or supplies any information—
 - (i) for or to the Crown, or any constable, or any local authority; or
 - (ii) at the request of a person who is not a client of the business; or
 - (iii) only as a necessary, usual, or reasonable incident of any other activity by that person that is not described in that subsection; or
 - (iv) for any purpose relating to the dissemination of news or other information to the public or to any section of the public; or
 - (v) for any cultural or historical purpose or for any purpose relating to education, literature, or science; or
 - (vi) relating only to the person by whom he or she is engaged or retained; or
 - (vii) in the course of and for the purposes of the business of a bank, or of a credit bureau, or of a debt collecting agency; or
 - (b) he or she is a security technician, security consultant, confidential document destruction agent, repossession agent, property guard, personal guard, or crowd controller.

3.2 Further, s 13 defines a “private investigator employee” as:

In this Act, private investigator employee means an individual who in the course of his or her employment, or engagement as a contractor, by a private investigator seeks, or obtains for any person or supplies to any person, any information specified in section 5(2).

3.3 The definition of “private investigator” appears to have been largely transposed from the 1974 Act to the PSPPIA. The only substantive addition is s 5(4)(ii) which excludes those seeking, obtaining or supplying information at the request of someone who is not a client of the business concerned. Prior to enactment, it does not appear that this definition was the subject of much debate either in the House of Representatives or the Select Committee which considered the 2008 Bill at length.

3.4 While it used different terminology, the 1974 Act also defined the concept of someone employed by a private investigator in similar terms to the PSPPIA.¹⁰

Licences

3.5 Private investigators are required to hold a licence under the PSPPIA.¹¹ Private investigators can be licenced as either individuals or as a company.¹² Failure to hold a licence is an offence, carrying a maximum penalty of a \$40,000 (for an individual) or \$60,000 (for a body corporate) fine.¹³

¹⁰ Section 2 of the 1974 Act defined a “responsible employee” as: in relation to a private investigator, a person who in the course of his employment by the private investigator seeks or obtains for any person or supplies to any person any information specified in subsection (2) of section 3.

¹¹ Section 23(1)(a).

¹² Sections 24 and 25.

- 3.6 Part 2 of the PSPPIA lays out the licensing framework. Licence applications are assessed by the Authority, which is empowered to make whatever inquiries it considers necessary in order to determine whether or not the application should be granted.¹⁴ It may also provide a copy of the application to the chief investigator of the Complaints, Investigation, and Prosecution Unit (CIPU) and request that a report be prepared.¹⁵
- 3.7 The Authority is required to notify Police of every licence application.¹⁶ The Police may file a notice of objection to the application, which the Authority will in turn serve on the applicant.¹⁷ The Authority will also note the application on the 'notice of intention register' which is publicly available. Members of the public may also file a notice of objection.¹⁸ Notices of objection must be filed within 20 working days of the first date of publication on the register.
- 3.8 If no notices of objection are filed, the Authority determines the application on the papers.¹⁹ If one or more such notices are filed, the Authority must determine the matter on the papers unless it thinks an oral hearing is required.²⁰ If a hearing is held, the applicant and every objector is entitled to appear, be heard, call evidence, cross-examine and re-examine witnesses. In the event the CIPU prepared a report on the application per s 26(1)(b) of the PSPPIA, the chief investigator or their delegate is also so entitled.²¹
- 3.9 Once an application is granted, the Authority will issue the licence. The Authority must notify the Commissioner of Police when a licence is issued.²²

Certificates of approval

- 3.10 Those employed by a licensed private investigator must themselves hold a certificate of approval (COA).²³ Failure to do so is an offence carrying a maximum penalty of a \$20,000 fine.²⁴ The application process for COAs mirrors that for licences, as described above.

Fees

- 3.11 The Private Security Personnel and Private Investigators (Fees) Regulations 2011 prescribe the fees payable in respect of applications for licences and COAs.
- 3.12 Licences and COAs are valid for five years from the date of issue unless cancelled earlier.²⁵ They may be renewed, however, renewal applications are treated for all intents and purposes as if the application were for a new licence or COA.²⁶
- 3.13 The current fees are set out in the table below:²⁷

¹³ Section 23(2).

¹⁴ Section 26(1)(a).

¹⁵ Section 26(1)(b).

¹⁶ Section 27.

¹⁷ Section 28.

¹⁸ Section 29.

¹⁹ Section 30(1).

²⁰ Section 30(2).

²¹ Section 31(3).

²² Section 37.

²³ Section 44(1)(a).

²⁴ Section 44(2).

²⁵ Section 36.

²⁶ Section 42.

²⁷ These fees are also published on the Authority's website: <https://www.justice.govt.nz/tribunals/licences-certificates/pspla/forms-and-fees/>

Type of application	Hardcopy fee	Electronic fee
Application for licence (individual)	\$600	\$510
Application for licence (company)	\$725	\$616
Application for renewal of licence (individual)	\$600	\$510
Application for renewal of licence (company)	\$725	\$616
Application for COA	\$200	\$170
Application for renewal of COA	\$200	\$170

Disciplinary and complaints processes

- 3.14 Licensees and certificate holders are subject to the disciplinary and complaints processes of the Authority as laid out in Part 4 of the PSPPIA.
- 3.15 The Police may file a written complaint against a licensee or certificate holder with the Authority at any time. Members of the public may only do so with the leave of the Authority, which is obliged to refuse leave unless it “is satisfied that the complainant has an interest, greater than that of the public generally, in the subject matter of the complaint, and that the complaint is made in good faith and is not frivolous or vexatious”.²⁸
- 3.16 Complaints must be made on one or more of the following grounds:²⁹
- (a) that one or more grounds of disqualification under s 62 or 63, as the case may be, now apply to the licensee/certificate holder;
 - (b) that there are one or more grounds for cancelling the licence under s 80, or s 83 in respect of a certificate holder;
 - (c) that the licensee/certificate holder has contravened any provision of this Act or regulations made under this Act;
 - (d) that the certificate holder or licensee or, if the licensee is a company, any officer of the company, has been guilty of unsatisfactory conduct or misconduct or gross negligence; and/or
 - (e) that a false statement was made in the application for the licence or COA.
- 3.17 On receipt of a complaint, the Authority may send a copy on to the Commissioner of Police or the CIPU and request that a report be prepared in relation to the complaint.³⁰ The Authority may suspend a licence or COA pending the determination of a complaint.³¹
- 3.18 The Authority is obliged to hold a hearing in respect of any complaint, at which, the complainant, the licensee or certificate holder, Police, and the CIPU are entitled to appear, be heard, call evidence, cross-examine and re-examine any witnesses.³² However, if the Authority considers it

²⁸ Sections 73(3) and 74(3).

²⁹ Sections 73 and 74.

³⁰ Section 75.

³¹ Section 76.

³² Section 77(1) and (5).

appropriate, it may determine a complaint on the papers, provided it gives all parties a reasonable opportunity to comment on whether the complaint should be dealt with in this manner.³³

3.19 If the Authority is satisfied that the grounds for disciplinary action are made out, it may:³⁴

- (a) cancel the licence or COA;
- (b) suspend the license or COA;
- (c) make an order that the licensee/certificate holder undergo training, work under supervision or subject to certain conditions;
- (d) bar the licensee/certificate holder from applying for a licence or COA for a specific period of time;
- (e) fine the licensee/certificate holder up to \$2,000; and/or
- (f) reprimand the licensee/certificate holder.

3.20 In some circumstances, cancellation of a licence or COA is mandatory.³⁵

4 Implications of the Authority's decision in *D, E & C Ltd*

4.1 This decision related to a complaint filed by Ms A against C Ltd. Ms A took issue with the manner in which Ms E, director of C Ltd along with Ms D, carried out a workplace investigation on behalf of Ms A's former employer. Ms A alleged that Ms E and Ms D were providing private investigation services through their company, C Ltd, without the necessary licence or certificate of approval.

4.2 C Ltd specialised in independent investigations into workplace complaints. As summarised by the Authority:³⁶

They are contracted to carry out investigations on behalf of an employer where there are allegations of misconduct, either by one employee against another or by an employee against a manager. Most allegations relate to bullying, sexual harassment or other inappropriate behaviour in the workplace but can also relate to allegations of fraud or theft.

4.3 The Authority referred the complaint to you to investigate whether Ms E, Ms D or C Ltd were carrying out work that required them to have a private investigator licence or COA. You concluded that C Ltd, Ms E and Ms D, were carrying out work which fitted within the definition of private investigator and therefore should hold the appropriate license and certificates, and that C and its directors were not exempted by s 22(d) of the PSPPIA.

4.4 The Authority agreed and observed that:³⁷

I accept that parliament may not specifically have had employment investigators in mind when considering the work of private investigators when the Act was passed. This may have been because this type of work is a relatively recent feature in the New Zealand market. However, parliament clearly intended the definition of private investigator to cover all people in the business of carrying out investigations into a person's character, actions or behaviour. This is an integral part of an employment investigator's work.

³³ Section 77(8) and (9).

³⁴ Sections 78 and 81.

³⁵ Sections 79 and 82.

³⁶ *D, E & C Ltd*, above n 1, at [8].

³⁷ At [14].

- 4.5 In reaching this conclusion, the Authority also noted that while the consequences arising from such investigations are clearly the concern of the Employment Relations Authority or Employment Court, “a person concerned about the legality or conduct of an employment investigator cannot file a complaint, or request an investigation” in that jurisdiction.³⁸
- 4.6 Following this decision, the Authority received several inquiries about whether professions such as health and safety investigators/auditors and forensic accountants are also considered private investigators. We agree with you and the Authority that “the key issue is whether such investigators fit within the definition of a private investigator as set out in s 5 of the Act”.³⁹

5 Are forensic accountants “private investigators” as defined in the PSPPIA?

What is a forensic accountant?

- 5.1 Forensic accountancy is a specialisation within accounting. Chartered Accountants Australia New Zealand (CAANZ) describes forensic accountants as:

...highly skilled in analysing and preparing financial information for a court of law. It's a field that requires a combination of accounting, auditing and investigative skills.⁴⁰

- 5.2 There is no specific degree pathway to become a forensic accountant. While many of those that practice in this field have a tertiary degree in accounting, are a CAANZ member and have completed a forensic accounting specialisation course, there is no requirement for someone to undertake this type of training in order to call themselves a forensic accountant.⁴¹
- 5.3 In preparing your investigation report on forensic accountants for the Authority (**Forensic Accountants Report**) you spoke with various stakeholders within the industry, a number of which maintain specialised forensic accounting teams within their wider practice.⁴²
- 5.4 Daily tasks for a forensic accountant may include gathering and/or reviewing financial information, contracts, communications (including email, text messages etc), interviewing people and preparing evidence for use in court.
- 5.5 As the Forensic Accountants Report states, there are essentially two streams within which a forensic accountant may work:⁴³
- (a) undertaking desk-based analysis of financial information provided by a client; or
 - (b) actively requesting and gathering further information from clients and other related parties.

Do forensic accountants fall within the definition of “private investigator”?

- 5.6 The Forensic Accountants Report makes clear that not all forensic accountants are necessarily directly involved in “seeking, obtaining or supplying” information.⁴⁴

³⁸ At [26].

³⁹ Authority Referral, above n 2, at [2].

⁴⁰ <https://www.charteredaccountantsanz.com/member-services/technical/forensic-accounting>

⁴¹ Forensic Accountants Report at 4.

⁴² Including Ernst & Young and Deloitte.

⁴³ Forensic Accountants Report at 12.

⁴⁴ As defined in section 5 of the PSPPIA.

- 5.7 For example, Deloitte has a specialist forensic team of 35-40 employees. This team includes forensic accountants, digital forensic specialists, discovery specialists, and analytic/data science specialists. Currently, Deloitte has a company private investigator licence and those who actively seek, obtain or supply information within this team have COAs. Staff who analyse data in a desk-based capacity do not.
- 5.8 However, this approach is not consistent across the accounting industry. Baker Tilly holds a private investigator licence and the head of their human resources team holds a COA. These were obtained as a result of the Authority's decision regarding those who engage in workplace investigations in *D, E & C Limited*. No other member of the team holds a COA.
- 5.9 Ernst & Young is in the process of renewing its company licence and deciding which of its staff require COAs.⁴⁵
- 5.10 This variation in the sector stems from a lack of clarity around whether forensic accountants fall within the s 5 definition of "private investigator".
- 5.11 Based on the above description of type of work forensic accountants typically engage in, we agree with your view that the definition captures forensic accountants, even those working in a desk-based analytical type capacity. This is because those people will often nevertheless be involved in the *supply* of information, particularly that relating to the financial position of others, to those within their team and to clients themselves. These types of activities also fall within the ambit of s 5.

6 Are forensic accountants captured by the s 22(d) exemption in the PSPPIA?

How are forensic accountants currently regulated?

- 6.1 In order to determine whether forensic accountants may be exempted from holding a licence/COA under s 22(d) of the PSPPIA, it is necessary to first consider how the profession is regulated.
- 6.2 As you are aware, the accounting profession is largely regulated by CAANZ. Only full members of CAANZ may call themselves a "chartered" accountant. CAANZ remains subject to the New Zealand Institute of Chartered Accountants Act 1996 (**NZICA Act**), which established its predecessor organisation prior to the creation of the present trans-Tasman body in 2014.
- 6.3 Currently, there are approximately 31,000 New Zealand CAANZ members. In order to become a full CAANZ member one must:⁴⁶
- (a) hold a bachelor's degree;
 - (b) complete CAANZ's Graduate Diploma of Chartered Accounting; and
 - (c) complete three years of mentored practical experience with a CAANZ approved employer.
- 6.4 While someone is in the process of completing these membership requirements, they can apply to become a "provisional" CAANZ member.
- 6.5 Further, only full CAANZ members who hold the designation of "chartered accountant" and a Certificate of Public Practice (**CPP**) may offer accounting services to the public.⁴⁷ To apply for a CPP, a chartered accountant must:

⁴⁵ Forensic Accountants Report at 5.

⁴⁶ <https://www.charteredaccountantsanz.com/become-a-member/memberships/chartered-accountant>

⁴⁷ Rules of the New Zealand Institute of Chartered Accountants, rule 10.2 [**NZICA Rules**].

- (a) have two years acceptable practical experience; and
 - (b) have completed the Public Practice Program within the past two years.
- 6.6 Applicants are required to provide two character references and a certificate of acceptable practical experience.
- 6.7 CAANZ also offers a qualification for forensic accountancy but this is a voluntary accreditation.
- 6.8 CAANZ does not keep data on the number of non-chartered accountants there are in New Zealand, but estimates the number of “kitchen table accountants” may number tens of thousands.⁴⁸ These accountants are essentially unregulated. Importantly, as noted above, there is no restriction on who may call themselves a forensic accountant and no requirement for forensic accountants to be CAANZ members.
- 6.9 The NZICA Act imposes a duty on CAANZ to “control and regulate the practice of the profession of accountancy” by its New Zealand members with “reasonable skill and care”.⁴⁹ New Zealand members are also subject to the NZICA Rules and NZICA Code of Ethics.
- 6.10 CAANZ is also responsible for dealing with complaints and other disciplinary matters, including breaches of the NZICA Code of Ethics. These matters are handled in the first instance by the Professional Conduct Committee (**PCC**). The complaints process is detailed extensively on the CAANZ website.⁵⁰
- 6.11 The PCC are empowered to take various actions in respect of complaints including:
 - (a) taking no further action;
 - (b) cautioning the member;
 - (c) requiring the member to costs;
 - (d) offering sanctions by consent, including reprimanding or fining the member, or requiring them to complete professional development;
 - (e) referring the complaint to the Disciplinary Tribunal.
- 6.12 In turn, the Disciplinary Tribunal has the power to:
 - (a) remove the member from the register;
 - (b) suspend the member for up to five years;
 - (c) impose monetary penalties;
 - (d) censure the member;
 - (e) cancel or suspend a Certificate of Public Practice;
 - (f) require the member to complete professional development; and
 - (g) require an investigation or review of the member’s practice.

⁴⁸ Forensic Accountants Report at 9.

⁴⁹ NZICA Act, s 5A.

⁵⁰ <https://www.charteredaccountantsanz.com/about-us/complaints/complaints-about-a-member>

Are forensic accountants exempted from holding a licence or COA under s 22(d)?

6.13 Section 22(d) of the PSPPIA provides that:

Nothing in this Act...requires any person to hold a licence or certificate of approval in respect of the carrying on by that person of an occupation or business in accordance with a practising certificate, licence, permit, or other authority, granted or issued to him or her under any other enactment.

6.14 There are clear policy reasons behind this exemption.

6.15 The purpose of the PSPPIA is:⁵¹

to ensure that persons offering specified private security and investigation services for hire, and personnel providing those services, —

- (a) are suitably qualified to carry out that work; and
- (b) do not behave in ways that are contrary to the public interest.

6.16 The licensing regime is the manner in which the PSPPIA seeks to achieve this. However, s 22 implicitly acknowledges that there are some cases where this end is achieved by other means ie through other forms of regulation. In addition to those exempted under subsection (d), s 22 also exempts the Commissioner of Police, Police employees, and Crown employees from the requirement to hold a licence or COA. These individuals are bound by other rules and obligations which makes an added layer of regulation under the PSPPIA unnecessary.

6.17 Similarly, lawyers with practising certificates are exempt under s 22(d). Practising certificates are issued by the New Zealand Law Society (**NZLS**) under s 39 of the Lawyers and Conveyances Act 2006 (**LCA**).

6.18 NZLS (like CAANZ) is a creature of statute, and the primary regulator of the legal profession.⁵² Lawyers are required to abide by the Conduct and Client Care Rules 2008. NZLS operates a disciplinary and complaints process as mandated by Part 7 of the LCA. Further, the NZLS Complaints Service is subject to the Lawyers and Conveyancers Act (Lawyers: Complaints Service and Standards Committees) Regulations 2008.

6.19 As discussed above, CAANZ operates similar systems regulating entry into the profession as a “chartered” accountant, fostering compliance with prescribed professional standards and a complaints and disciplinary regime for those who fail to comply with their regulatory obligations. Members offering their services to the public must hold a CPP issued pursuant to the NZICA Rules.⁵³

6.20 In our view, CAANZ is equal to NZLS in terms of the regulatory oversight it provides. Just as lawyers cannot hold themselves out as such without first being admitted to the bar, chartered accountants must meet the requirements for full CAANZ membership before they may call themselves “chartered” accountants. In order to provide services to the public, both lawyers and accountants must hold practising certificates issued by their respective regulatory bodies in accordance with secondary legislation.

6.21 For these reasons, we agree that CAANZ members are exempted from licensing requirements in accordance with s 22(d) of the PSPPIA. This comports with the policy reasons behind this exemption provision as elucidated above.

⁵¹ Section 3.

⁵² Lawyers and Conveyancers Act 2006, s 63.

⁵³ Section 6 of the NZICA Act specifies what the Rules must include.

- 6.22 It follows that those accountants who are not CAANZ members are not so exempted. While it may be uncommon for “kitchen table” or non-chartered accountants to engage in forensic accounting, those who do are not regulated by CAANZ and therefore the measure of oversight and regulation afforded by licensing under the PSPPIA is appropriate.
- 6.23 For completeness, we note that while CAANZ members are exempted under s 22(d), they may still obtain a licence/COA if they so wish, for example, to gain a commercial advantage. The PSPPIA does not in any way prohibit those who are exempt from its licensing requirements from obtaining a licence/COA.

7 Are health and safety professionals “private investigators” as defined in the PSPPIA?

What is a health and safety professional?

- 7.1 Per your Health & Safety Professionals Investigation Report (**HSP Report**), “health and safety professional” is an umbrella term capturing all individuals working in roles that are health and safety related. This includes consultants, practitioners, advisors, auditors and investigators.⁵⁴
- 7.2 Health and safety professionals undertake a wide array of work including auditing clients’ compliance with their obligations under the Health and Safety at Work Act 2015 (**HASWA**) and investigating health and safety events, which include accidents, injuries and near misses. The HSP Report notes that “an investigation tends to be reactive, whereas an audit tends to be proactive”.⁵⁵
- 7.3 Mike Cosman, a self-employed health and safety consultant, advised that in New Zealand, health and safety consultants tend to be “generalists who do not specialise in one particular sector”.⁵⁶ Mr Cosman has conducted investigations in workplace bullying, sexual harassment, and suicide as well as providing prospective audits for a variety of public agencies and private businesses.
- 7.4 There are no formal requirements to become a health and safety professional.

Do health and safety professionals fall within the definition of “private investigator”?

- 7.5 Conduct that may be subject to a health and safety investigation can run the gamut from workplace bullying through to an accident, such as an employee falling off a ladder or being injured by a piece of equipment.
- 7.6 In line with the Authority’s decision in *D, E & C Ltd*, we note that an investigation into workplace bullying, whether performed by someone calling themselves a “health and safety professional” or a “workplace investigator”, will necessarily involve seeking information relating to a person’s actions and therefore fall within the meaning of “private investigator” in the PSPPIA. The same may be said of someone investigating how a particular accident occurred.
- 7.7 The position on health and safety audits is less clear. As they are prospective in nature, the information collected during an audit may not fall within that described in s 5(2). However, per Mr Cosman’s observation, health and safety professionals tend to be “generalists” and therefore it is common for a professional to conduct both audits and investigations in the course of their work.
- 7.8 We are of the view that health and safety professionals conducting investigations are “private investigators”. However, despite Mr Cosman’s observations, we note that there may be those in the profession who exclusively conduct health and safety audits. Provided these individuals are not

⁵⁴ HSP Report at 3.

⁵⁵ At 13.

⁵⁶ At 11.

engaged in seeking, obtaining or supplying any information of the kind described in s 5, they will not be captured as “private investigators” under the PSPPIA.

- 7.9 On a practical note, those that exclusively conduct audits may nevertheless wish to comply with the licensing requirements of the PSPPIA to ensure that they are acting in accordance with their obligations under the Act in the event they find themselves dealing with information in the manner described in s 5.

8 Are health and safety professionals captured by the s 22(d) exemption in the PSPPIA?

How are health and safety professionals currently regulated?

- 8.1 WorkSafe is New Zealand’s primary health and safety regulator. WorkSafe oversees the entire sector and employs its own inspectors to undertake investigations.⁵⁷ However, it does not have a dedicated mechanism for the regulation of those who hold themselves out as health and safety professionals to the public.
- 8.2 HASANZ was established in 2014 in order “to increase the capability and capacity of the health and safety community” in the aftermath of the Pike River Mining Disaster.⁵⁸ It currently has over 5,000 individual members and 14 member associations.⁵⁹ Each organisation covers a different sector within the health and safety industry. In order to become a HASANZ member, an individual must also be a member of a HASANZ member association.
- 8.3 HASANZ maintains a publicly searchable register of its members. The register was launched in July 2018, with funding from WorkSafe and ACC.⁶⁰ A member must be approved before they are included on the register. In order to be included on the register, a member must:
- (a) join a HASANZ member association;
 - (b) pass a good character test, including a review of character references;
 - (c) hold public and statutory liability insurance; and
 - (d) complete 40 hours of ongoing professional development each year.⁶¹
- 8.4 Unlike CAANZ, HASANZ is a private body and not a creature of statute. It also does not have a formal disciplinary function. Complaints against members are dealt with by the member’s regulator or specific association before it is referred to HASANZ. It is unclear whether HASANZ has its own complaints process.⁶² However, HASANZ does require each of its member organisations to have a comprehensive complaints process.

⁵⁷ As WorkSafe is a Crown entity and therefore its investigators are exempt from any licensing requirements per s 5(4)(a)(i) of the PSPPIA.

⁵⁸ At 7.

⁵⁹ These include: Faculty of Asbestos Management of Australia & New Zealand Ltd, Hazardous Substances Professionals New Zealand, Human Factors and Ergonomics Society of New Zealand, Institute of Organisational Psychology, New Zealand Institute of Safety Management, NZ Occupational Health Nurses Association, NZ Occupational Hygiene Society, New Zealand Safety Council, Occupational Therapy New Zealand Whakaora Ngangahau Aotearoa, Physiotherapy New Zealand (Occupational Group), Australasian Faculty of Occupational and Environmental Medicine of Royal Australasian College of Physicians, Australian/New Zealand Society of Occupational Medicine, Maintenance Engineering Society of New Zealand, NZ Institute of Hazardous Substances Management, and Human Resources Institute of New Zealand.

⁶⁰ <https://www.worksafe.govt.nz/about-us/news-and-media/health-and-safety-register-launched/>

⁶¹ Ibid.

⁶² There is no mention of any such process on the HASANZ website.

- 8.5 HASANZ membership is voluntary and given the wide variety of practice areas in which its members participate, there is no requirement for members to hold any kind of practising certificate, licence, or permit in order to provide their services to the public.
- 8.6 For these reasons, we advise that health and safety members do not fall within the s 22(d) exemption. This conclusion is in line with the policy rationale for this provision as elucidated above at [6.14]-[6.16].
- 8.7 We note that some members of HASANZ member organisations will require specific qualifications in order to register and practice within their chosen field eg occupational health nurses. As such, some professions that fall under the health and safety umbrella, may be exempted by virtue of the practising certificates, permits or licences issued under other legislation. However, in our view, they will not qualify for an exemption pursuant to s 22(d) simply by virtue of their HASANZ membership alone.

Should health and safety professionals nevertheless be exempted from licensing requirements under the PSPPIA?

- 8.8 You interviewed WorkSafe as part of the HSP Report:⁶³

...[WorkSafe] believes health and safety investigations are unintentionally captured by the PSPPIA and an exemption for health and safety professionals should be considered by the Licensing Authority, particularly for members of HASANZ.

- 8.9 We prefer your analysis, as captured in the HSP Report:⁶⁴

CIPU's view is that unless its member organisations can demonstrate that they are regulated by another Act...then no blanket exemption should apply to individuals from those member organisations whom conduct health and safety investigations and audits. Membership to HASANZ would not automatically mean that members of it would qualify or be entitled to an exemption under the PSPPI Act.

- 8.10 While it may not have been the explicit intention of Parliament to specifically capture health and safety professionals at the time the PSPPIA was drafted, it nevertheless sought to ensure that all those engaged in the business of seeking, obtaining or supplying information were subject to the oversight provided by the licensing regime.
- 8.11 In our view, HASANZ does not currently provide sufficient regulatory oversight to justify the exemption of its members from the requirements of the Act. Moreover, as a matter of law, health and safety professionals do not require a practising certificate, licence, permit, or other authority to hold themselves out as such and offer their services to the public.
- 8.12 For completeness, we note that s 12 of the PSPPIA empowers the Governor-General to exclude certain persons from falling within the definition of "private investigator" by issuing an Order in Council on recommendation of the Minister of Justice declaring that:
- (a) certain persons or classes of persons are not any one of the persons defined in s 5 by reason only of the fact that they carry on any occupation or business described in the order;
 - (b) certain persons or classes of persons are not any one of the persons defined in sections by reason only of the fact that they carry on any occupation or business described in the order conditional on—

⁶³ At 15.

⁶⁴ At 26.

- (i) those persons being members or affiliates of a named professional organisation or licensed under the law of New Zealand or any other place outside New Zealand; or
- (ii) some other requirement being satisfied.

8.13 The Minister must not make a recommendation unless they:⁶⁵

- (a) are satisfied that there is no material benefit to be gained by requiring the persons concerned to be licensed; and
- (b) have consulted the persons or organisations that, in the opinion of the Minister, have an interest in the proposed declaration.

8.14 To date no such Order has been issued. However, it remains open to HASANZ to lobby the Minister to recommend that such an order be issued in respect of its members. While this approach is not without its challenges, it is the only feasible option, bar legislative change, to exempt health and safety professionals from the definition of “private investigator” under the PSPPIA and its associated licensing requirements.

9 Conclusion

- 9.1 We consider that both forensic accountants and health and safety professionals are captured by the definition of “private investigator” in s 5 of the PSPPIA. While forensic accountants who are CAANZ members are exempted from licensing requirements per s 22(d), health and safety professionals - including those who are members of HASANZ - are not. In particular, HASANZ members do not hold a practising certificate, licence, permit, or other authority under an enactment (as required under s 22(d)) simply by virtue of being HASANZ members. Further, we do not consider that HASANZ currently provides sufficient regulatory oversight of health and safety professionals to warrant an exemption from the requirements of the PSPPIA.
- 9.2 These conclusions align with both the legislative history of the PSPPIA and Parliament’s intent as captured in the Select Committee report and the Act itself.
- 9.3 However, we note that it is nevertheless open to HASANZ and the broader health and safety profession to seek an exemption from the Governor-General through an Order in Council issued pursuant to s 12 of the PSPPIA.
- 9.4 Please do not hesitate to contact us if you have any questions or wish to discuss this issue further.

Yours faithfully



Jessica Blythe | Ella Palsenbarg

Partner | Solicitor

DDI: +649 336 7567 | +649 336 7554

Fax: +649 336 7629

Jessica.Blythe@mc.co.nz | Ella.Palsenbarg@mc.co.nz

⁶⁵ Section 12(2)

IN THE MATTER OF

A complaint filed under ss 73 & 74 of the Private Security Personnel and Private Investigators Act 2010

IN RELATION TO

D, E & C LIMITED

DECISION

[1] In July 2019 Ms A filed a complaint against C Limited (C). Ms A's complaint related to the way Ms E carried out a workplace investigation for Ms A's previous employer. Ms A also said that Ms D and Ms E, were providing private investigation services through their company C without the necessary certificate or licence.

[2] I referred the complaint to the Complaints, Investigation and Prosecution Unit (CIPU) to investigate whether C, Ms E or Ms D were carrying out work that required them to have a licence or certificate in the class of private investigator.

[3] CIPU completed their report in March 2020. The writer of the report concluded that C and its directors were carrying out work that fitted within the definition of private investigator and they should therefore hold the appropriate licence and certificates. It also concluded that C and its directors were not exempt from holding a licence or certificate under s 22(d) of the PSPPI Act on the basis that both directors hold practicing certificates as lawyers.

[4] C disagrees with the investigator's findings and have asked me to review his conclusions. They submit a purposive interpretation should be applied and that it was never the intention of the Act for employment consultants and investigators to fit within the definition of a private investigator. In addition, even if they were required to hold a licence at the time they carried out the investigation, they should now be exempted by s 22(d) as they hold practicing certificates as lawyers.

[5] The key issues I need to decide are:

- a) Were C private investigators and therefore required to have a security licence?
- b) If so, are C exempt from holding a licence as both Ms E and Ms D are lawyers undertaking work pursuant to a practicing certificate?

[6] I note that regardless of my decision on either of those issues I have no jurisdiction to deal with Ms A's complaint about the way Ms E carried out her work and the outcome of her investigation. Sections 73 and 74 of the Act specifically provides that I only have the jurisdiction to deal with complaints against licence or certificate holders. C does not hold, and never has held, a licence and Ms E and Ms D do not have, and never have held, certificates. The most I could do, if I find C is operating in breach of the Act, is to refer that issue back to CIPU to consider further action.

Are C private investigators who are required to hold a security licence?

[7] Section 5 of the Act defines private investigator as:

(1) In this Act **private investigator** means a person who, for valuable consideration, either by himself or herself or in partnership with any other person, carries on a business seeking or obtaining for any person or supplying to any person any information described in subsection (2).

(2) For the purposes of this section **information**-

- (a) means any information relating to-
 - (i) the personal character, actions, or behaviour of any person; or
 - (ii) the financial position of any person; or
 - (iii) the occupation or business of any person; or
 - (iv) the identity of any person; but
- (b) does not include information that is contained in a public record.

[8] C specialise in independent investigations into workplace complaints. They are contracted to carry out investigations on behalf of an employer where there are allegations of misconduct, either by one employee against another or by an employee against a manager. Most allegations relate to bullying, sexual harassment or other inappropriate behaviour in the workplace but can also relate to allegations of fraud or theft.

[9] When such allegations are made an employer is legally required to establish the facts of the complaint. To ensure fairness to all parties and that any investigation is conducted in accordance with the principles of natural justice and procedural fairness, it is now considered best practice for employers in New Zealand to engage a specialist third party to undertake an independent employment investigation.

[10] C advise that the following steps were undertaken in the investigation involving Ms A, and in most other investigations they carry out:

- a) Participants voluntarily participate in an interview and may have a support person or legal representative present. This includes both the people who have made the complaint and the people against whom complaints have been made.
- b) The company may also provide the investigator with relevant evidence and the investigator can request additional information from the employer.
- c) The respondent and the complainant are provided with the opportunity to review and comment on all the evidence collected by the investigator.
- d) Both the complainant and respondent are provided with the opportunity to review and comment on the draft investigation report.
- e) A final investigation report is provided to the employer setting out the investigators opinion on whether the factual allegations occurred and, if so, whether that conduct amounts to a breach of the employer's relevant policies.

[11] C's investigation regarding Ms A involved seeking or obtaining information into the actions and behaviour of the people involved and could, in other investigations, involve seeking information as to the identity of the people involved and possibly the financial position of any person. Therefore, C is carrying on a business of seeking or obtaining for its clients or supplying to its client's information as defined in s 5(2) of the Act.

[12] C accepts that their investigations fit within a narrow, black letter interpretation of s 5 of the Act. However, they submit, that a purposive rather than narrow interpretation is required, particularly where there is some ambiguity about whether previously un contemplated circumstances fall within the scope of the Act.

[13] They submit that when the Act was passed Parliament's main concern was to ensure private security personnel and investigators did not get out of hand and to deter cowboy operators. They further submit that the Act was directed at private investigators in the sense in which that role is commonly understood, namely covert investigations and surveillance of targets. They do not consider it was ever intended to include the type of work carried out by employment investigators. They also say that there are some significant differences between the investigations they and other employment investigators undertake and those undertaken by the typical private investigator.

[14] I accept that parliament may not specifically have had employment investigators in mind when considering the work of private investigators when the Act was passed. This may have been because this type of work is a relatively recent feature in the New Zealand market. However, parliament clearly intended the definition of private investigator to cover all people in the business of carrying out investigations into a person's character, actions or behaviour. This is an integral part of an employment investigators work.

[15] I accept employment investigations are more transparent than most of the investigation work undertaken by other private investigators. However, since employees often pre-emptively given consent as part of their employment agreement I do not consider they are any more voluntary than the work of some other private investigators.

[16] C also says their work is more akin to that of an adjudicator rather than an investigator and that they receive information rather than seek it out. I do not accept the submission that the investigation work is passive rather than active. They determine who they will speak to, the questions they will ask and the information and documentation they will seek. They then assess the information they obtain and complete a report on the factual allegations they have investigated. Other than providing all people involved in the investigation with a draft report for comment, this is not substantively different to what is done by many other private investigators.

[17] C says a further difference is that if individuals decline to participate in an employment investigation covert surveillance or invasion of privacy does not follow. However covert surveillance and invasion of privacy is not part of the definition of the work of a private investigator as set out in s 5 of the Act. In addition, the work carried out by those more commonly considered to be a private investigator covers a wide range and frequently does not include surveillance or invasion of privacy.

[18] The word private when referring to private investigators does not mean covert or secret. It is used to distinguish private investigators from public or state appointed investigators such as the Police or others employed as investigators by government agencies.

[19] C's website states that they undertake "independent workplace investigations and reviews" and that they specialise in "independent investigations into workplace complaints". Other entities holding themselves out to be workplace investigators state that they are investigation companies, impartial fact finders and that that no investigation is too complex.

[20] Based on the evidence of the work C do I conclude that even if a purposive interpretation is applied, by carrying on the business of employment investigators C come within the definition of a private investigator as set out in s 5 of the Act.

[21] At the time C carried out the investigation involving Ms A they did not fit within any of the exemptions set out in ss 5(4) or 22 of the Act. Therefore, C should have held a licence in the class of private investigator. Failure to do so was a breach of the Act.

[22] I accept that the breach was unintentional and that there is a widespread misconception in the industry that people in the business of employment investigations are not private investigators. While my decision may have significant implications for those who carry on business as employment investigators, I do not consider the result will be perverse as submitted by C.

[23] C submit that most employment investigators would not meet the criteria for a security licence as they have no training or experience in surveillance and security. However, surveillance experience is not an essential part of the training or experience for all private investigators. To meet the training and experience qualifications for a security licence in the class of private investigator all an investigator needs to show is that they are a trained and experienced investigator. Therefore, any competent and experienced employment investigator meets the training and experience requirements for a licence.

[24] There is also no substance in the submission that the requirement for employment investigators to be licenced would be perverse as it would undermine the reviews by people such as Dame Margaret Bazely or Maria Dew QC into allegations of harassment and bullying. While both have undertaken investigations, neither are holding themselves out to be in the business of investigation. Therefore, they are not required to hold a licence. The definition of private security employee in s 13 of the Act makes it clear that individuals who are employed or contracted to carry out an investigation are only required to have a certificate of approval if they are engaged to do so by a private investigator.

[25] I accept the consequences arising from such investigations are employment ones and that consequential actions by the employee can be challenged through the Employment Relations Authority and Employment Court. However, I do not consider any requirement for employment investigators to be licenced with the PSPLA means the PSPLA would become an employment regulator.

[26] A person concerned about the legality or conduct of an employment investigator cannot file a complaint, or request an investigation, against the investigator in the Employment Relations Authority or Employment Court. Neither body has a regulatory role over employment investigators and any concerns regarding their work can only be considered in the context of a claim against the employer who engaged the investigator.

[27] In addition, the Licensing Authority routinely refuses leave for complaints to be filed against investigators or employers where the complaint relates to employment matters which are more appropriately dealt with in the context of an employment dispute. I am only likely to grant leave for a complaint against an employment investigator if the complaint was about breaches of the Act or if there were grounds for disqualification under the Act. I have already declined leave for Ms A to file a complaint against her employer for this reason even though her employer holds a security licence.

Are C exempt from holding a licence under s 22 as its officers are lawyers undertaking work pursuant to a practicing certificate?

[28] Since C undertook the investigation involving Ms A it has become a law firm and both Ms E and Ms D now hold practicing certificates as lawyers. C therefore say that even if

they were required to hold a security licence in the past they are now exempt from doing so under s 22(d) of the Act.

[29] This subsection provides that the Act does not require any person to hold a licence or certificate:

in respect to the carrying on by that person of an occupation or business in accordance with a practicing certificate... issued under any other enactment.

[30] C argues that many lawyers carry on investigations and that lawyers who do work as employment investigators are carrying on business in accordance with a practicing certificate issued under the Lawyers and Conveyancers Act 2006. They are therefore now exempt from also needing to have a licence or certificate with the PSPLA.

[31] I agree. Section 22(d) provides an exemption for people who are licenced or permitted to carry out security work under some other regime. This is particularly the case if the other regime under which they are licensed ensures they are qualified to carry out the work and has a robust complaint process if they act contrary to the public interest

[32] The purpose of the Act is to ensure those offering private security services are suitably qualified to carry out the work and do not behave in ways that are contrary to the public interest. The training and ethical requirements for lawyers are more extensive than those under the Act for private investigators. In addition, the complaints process for and against lawyers is more comprehensive than that for private investigators. Therefore, the purpose of the Act is achieved by C being a law firm and its officers holding practicing certificates as lawyers.

[33] Employment investigations, such as those undertaken by C, have often been carried out by either in house counsel or employment lawyers. Therefore, I accept C are now carrying out the business of employment investigators in accordance with their practicing certificate as lawyers.

[34] I do not accept Ms A's submission that lawyers being exempted under s 22 from holding a licence means that there is nobody to ensure their actions are ethical and fair. The ethics and fairness requirements imposed on lawyers in conducting investigations is greater than those imposed by the PSPLA. Complaints can be made to the Law Society for such breaches and the system for complaints against lawyers holds them accountable for unethical practices.

[35] There are also clear ethical guidelines for lawyers regarding conflicts of interest which address Ms A's concern regarding any conflict between advocating for a client and undertaking an independent review.

Conclusion and Summary

[36] C are, for valuable consideration, carrying on a business of seeking or obtaining for their clients, or supplying to their clients, information as defined in s 5(1)(a) of the Act. C is therefore a private investigator. At the time they carried out the investigation involving Ms A, C was required to hold a licence as a private investigator. C was in breach of the Act because they did not hold a licence.

[37] C is however now an incorporated law firm and its officers both hold practicing certificates as lawyers. They are therefore exempt from needing to hold a licence under s 22(d) of the Act and are no longer in breach of the Act.

[38] I do not consider any further action against C, or its officers, is necessary for is breach of the Act. I accept that any breach was inadvertent and a result of the widespread belief within the employment investigation industry that they were not private investigators. Therefore, even if C had not become an incorporated law firm, I would not have recommended prosecution action against them but would have allowed them time to rectify the situation.

[39] Ms A's complaint is upheld to the extent of concluding that C breached the Act by working as private investigators without the necessary licences of certificates. For the reasons outlined in paragraph [6] above I have no jurisdiction to deal with any other parts of Ms A's complaint.

[40] The balance of the complaint is therefore dismissed, and the complaint is closed.

DATED at Wellington this 4th day of June 2020

The block contains a handwritten signature in blue ink, which appears to read 'P A McConnell'. To the right of the signature is a circular official seal. The seal has a blue border with the text 'THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY' in capital letters. Inside the circle is a royal coat of arms featuring a crown on top, a shield with various symbols, and two lions on either side of the shield.

P A McConnell

Private Security Personnel Licensing Authority

IN THE MATTER OF

A referral to CIPU under ss 74(2) & 75(2) of the Private Security Personnel and Private Investigators Act 2010

IN RELATION TO

Forensic Accountants and Chartered Members of Health and Safety Advisors New Zealand.

DIRECTION

[1] Since my decision in *D E & C Limited* [2020] NZPSLA 007 the Authority has received several inquiries about whether other related professions are also private investigators. The queries cover such professions as health and safety investigators and auditors and forensic accountants.

[2] The key issue is whether such investigators fit within the definition a private investigator as set out in s 4 the Act. A private investigator is defined as a person or entity that “carries on a business seeking or obtaining for any person or supplying to any person any information”. Information includes information relating to the personal character, actions or behaviour of any person, the financial position of any person and the occupation or business of any person but does not include information contained in a public record.

[3] After feedback from the Health and Safety Association of New Zealand (HASANZ) and NZIPI I have agreed to refer the matter to the Complaints, Investigation and Prosecution Unit (CIPU) for investigation and report. Once they have issued their report a copy will be sent to all interested parties. If necessary, I will then set a hearing date or a timetable for interested parties to make submissions on the issue. The Authority is then likely to make a formal ruling as to which of the roles fit within the definition of a private investigator and if so whether any are exempted from holding a licence or certificate under s 22(d) of the Act?

[4] The Human Resources Institute of New Zealand (HRNZ) have also requested that I include its chartered members in the investigation. However, CIPU have already investigated employment investigators which led to the *D E & C Limited* decision referred to above. As there has already been an investigation and substantive decision issued in relation to employment investigators there is no reason for the matter to be re-investigated. While membership of HRNZ was not considered as part of that decision, membership of HRNZ is not under any enactment. Therefore, its members are not exempt from registration with the Authority under s 22(d) of the Act.

[5] As HASANZ has proactively approached the Licensing Authority I issue a dispensation to all its chartered members from applying for a licence or certificate with the PSPLA until the matter is resolved. This means that until the Licensing Authority issues a substantive decision on whether any HASANZ member fits within the definition of a private investigator no chartered member of HASANZ is required to apply for a licence or certificate. In addition, no complaint will be accepted against a member of HASANZ on the basis that they are carrying out investigation work without a licence or certificate.

[6] I refer the issue of whether forensic accountants and work and safety investigators and auditors are private investigators to the Complaints, Investigation and Prosecution Unit for investigation. The key issues that CIPU should investigate and report on are:

- a) Do forensic accountants fit within the definition of a private investigator under ss 4 or 13 of the Act?
- b) If so, is there any form of registration, licence or permit they might hold that would exempt them from holding a licence or certificate under s 22(d) of the Act?
- c) Do health and safety advisers who carry out investigations or audits fit within the definition of private investigator in s 4 or 13 of the Act?
- d) If so, is there any form of registration, certificate, licence or permit they might hold that would exempt them from registration under s 22(d) of the Act.

DATED at Wellington this 18th day of August 2021

The block contains a handwritten signature in black ink, which appears to read 'P A McConnell'. To the right of the signature is a circular official seal. The seal has a blue border with the text 'THE PRIVATE SECURITY PERSONNEL LICENSING AUTHORITY' in capital letters. Inside the border is a royal coat of arms featuring a crown on top, two lions on the left, and two unicorns on the right, with a shield in the center.

P A McConnell
Private Security Personnel Licensing Authority

Private Security Personnel and Private Investigators Bill

Government Bill

Explanatory note

General policy statement

This Bill repeals and replaces the Private Investigators and Security Guards Act 1974, which regulates the private security industry and private investigators and their staff. The main aims of the Bill are—

- to prevent people from either running businesses or working in various roles in the industry if, by reason of their behaviour or for some other reason, it appears that allowing them to do this will result in unacceptable risks to their clients and employers, members of the public, or themselves; and
- to ensure that those running businesses or working in the industry are, where appropriate, required to complete a prescribed course of training equipping them with the minimum level of knowledge and skills required for the roles that they are expected to perform; and
- to ensure that those running businesses or working in the industry are required to comply with appropriate rules of conduct, some of which may be incorporated in codes of ethics prescribed by regulation; and
- to ensure that those running businesses or working in the industry are subject to appropriate penalties if found guilty of committing offences against the Act, or if the Licensing Au-

thority is satisfied that there are grounds for disciplinary action; and

- to ensure the effective and efficient administration and enforcement of the Act.

Background

Reviews of the Private Investigators and Security Guards Act 1974 (the **reviews**) were undertaken in 2001–03 and 2007. The content of the Bill reflects the findings of those reviews.

Requirement to be licensed

Under the Private Investigators and Security Guards Act 1974 persons have been required to be licensed if running businesses—

- as private investigators:
- installing burglar alarms or similar warning devices, or security cameras, or locking devices for safes or strongrooms on properties:
- entering a premise for any of the following purposes: to sell, or attempt to sell, a burglar alarm or similar warning device, to advise on the desirability of having such a device installed, or to advise on the advisability of having that premise or another premise guarded:
- guarding properties, or monitoring burglar alarms or similar warning devices, or monitoring security cameras.

Similarly, any persons they have employed or engaged to perform the work for which they themselves require a licence have also been required to be licensed.

The reviews identified a need to clarify and extend these licensing requirements, in order to avoid unnecessary risks to clients and employers, to members of the public, and to security personnel themselves.

The reviews also identified a need to licence persons who are employed or engaged to perform crowd control services, even if they do not work for businesses offering those services to others (eg, even if they work directly for a place selling liquor rather than for a separate business offering, or providing, crowd control services to that place).

In addition, one of the findings of the reviews was that requiring relicensing in March every year, for both licence and certificate holders, imposes heavy costs on the industry and produces few, if any, benefits that less frequent relicensing would produce. Less frequent relicensing, with the relicensing date depending on the date at which the current licence or certificate was applied for, was identified as desirable.

Training requirements

Under the Private Investigators and Security Guards Act 1974 there has been no provision for introducing mandatory training requirements for persons licensed under the Act.

This was identified in the reviews as a major shortcoming. Mandatory training requirements were identified as highly desirable for staff likely to encounter violence or potentially violent situations in the course of their work.

Rules of conduct including possible codes of ethics

Under the Private Investigators and Security Guards Act 1974, private investigators and their staff have been required to comply with a number of restrictions on how they carry out their work. In particular, it has been an offence to, in connection with the business of a private investigator, make visual or audio recordings of another person without the prior written consent of that person, except for purposes of identifying that person for the purpose of identifying someone on whom a legal process is to be or has been served.

The reviews concluded that maintaining these restrictions is desirable, in particular to protect the right of privacy.

The Act also contains a provision for introducing codes of ethics by regulation for persons licensed under the Act, although no codes of ethics have ever been promulgated. The reviews concluded that retaining this regulation-making power is desirable also, since having codes of ethics can assist in raising and then maintaining standards.

Offence provisions modernised and penalties increased

The reviews concluded that—

- offence provisions, and their wording, needed to be modernised:

- maximum penalties were not sufficiently high to deter offending against the Act, and, in particular, insufficiently high to deter unlicensed businesses from operating in the industry and unlicensed staff from working in the industry.

Administration and enforcement

The reviews identified a number of changes that could be made to improve the administration of the Act, including—

- a move to more objective criteria for determining whether licenses and certificates should be issued; and
- more accurate and accessible information on who is licensed and in what category, as well as more accurate and accessible licensing statistics.

The reviews also identified a need for a dedicated enforcement and prosecution unit, with the police unable to give priority to ensuring compliance with the Act due to other commitments.

Main changes to existing law

Requirement to be licensed: categories of licence

The Bill will require all those who are currently required to be licensed under the Act to continue to be required to be licensed and, in addition, additional persons are required to be licensed in line with the needs identified in the reviews of the Private Investigators and Security Guards Act 1974. The Bill—

- more widely defines when a person running a business entering premises to advise on security matters should be licensed;
- clarifies that a person running a business responding to a security alert should be licensed;
- clarifies that a person running a business collecting and disposing of confidential documents should be licensed;
- requires a person running a business guarding others to be licensed;
- requires a person running a business providing crowd control services (regulating entry to a premises, maintaining order on a premises, or removing persons from a premises) to be licensed.

Licences for persons wishing to run businesses are to be issued in 7 categories:

- private investigator:
- security technician:
- security consultant:
- confidential document destruction agent:
- property guard:
- personal guard:
- crowd controller.

Certificates for persons performing the work for which these businesses are required to be licensed, and who do not themselves possess a licence, are to also be issued in 7 categories:

- private investigator employee:
- security technician employee:
- security consultant employee:
- confidential document destruction agent employee:
- property guard employee:
- personal guard employee:
- crowd controller employee.

A crowd controllers licence or crowd controller employee certificate will also need to be possessed by anybody who is employed or engaged to perform crowd control work regardless of who they are employed or engaged by (unless that person is employed or engaged by the Crown).

The Bill will do away with annual renewals of licences and certificates. For both licences and certificates the full relicensing process will only need to be undertaken every 5 years from the date at which the licence or certificate was last issued or renewed. However, licence holders will be obliged to re-register every year, provide information to the Licensing Authority, and pay a prescribed fee.

Requirement to be licensed: flexibility

Considerable flexibility is possible within this framework, both to accommodate possible changes in the technology and in the operating environment without needing to amend the Act, and to address individual circumstances where there is a strong case to make an exception from the norm.

The Bill will make it possible to, by Order in Council (regulations)—

- require differing training or experience requirements within a category so that those who carry on a business, or are employed to work, only within a subcategory can be licensed subject to conditions imposed as to the work they may perform;
- exempt certain persons who would otherwise fall within a particular category from needing a licence or certificate. There is scope for making this exemption conditional on the persons concerned holding some other qualification, and/or being members of some specified professional body, which may be an international body;
- specify particular circumstances in which a licence or certificate is not required for some staff even though they perform work that would normally require a licence or certificate. This might be on condition that conditions specified in the order are complied with, and the Bill specifically states that regulations of this type may be made covering employees performing crowd control work at specified events or types of events.

In addition, licences and certificates will be able to have conditions attached by the Licensing Authority, so that those holding them are licensed to do some, but not all, of the things that the licence or certificate would otherwise permit them to do. This might be particularly appropriate for people with a disability that prevents them from performing some security-related tasks but not others.

Requirement to be licensed: acting in place of licensed security staff without full licence or certificate

There will always be a time lag between when an application is made for a licence and certificate, and when it will be possible to issue the full licence or certificate and there may also be a lengthy time lag between when someone applies for a position requiring a licence or certificate and when training can be arranged for them. Provision has therefore been made in the Bill for—

- temporary certificates to be issued by the Licensing Authority while an applicant for a licence or certificate waits for the full licensing process to be completed and possibly completes any additional training or experience requirements they require (a temporary certificate will be issued for a maximum

of 3 months unless extended in an individual case by the Licensing Authority); and

- applicants to act in place of a licensed person even before a temporary licence or certificate has been issued if otherwise the business concerned would have too few licensed persons to properly carry on its business (acting in such a position, however, will only be able to be done for a short time and will be subject to stringent safeguards).

Incidents requiring the sorts of actions that a crowd controller might be expected to perform can also arise very suddenly and unexpectedly in many types of work, particularly in an environment in which alcohol is being consumed. The Bill therefore—

- specifically states that a person does not require a certificate issued under the Act to perform the work of a crowd controller if he or she performs the role of a crowd controller incidentally to the principal work that he or she performs (for instance, a bar attendant responding to an incident involving patrons); and
- a duty manager appointed under the Sale of Liquor Act 1989 does not require a licence or certificate issued under the Act to perform any crowd control activities on the premises where they are acting as the duty manager.

In addition, volunteers performing work that falls within the strict definition of crowd control are also necessary to the smooth and safe running of many sporting and social events. Furthermore, in most cases licensing would appear manifestly excessive given the type and magnitude of the risks associated with such work, and it might even discourage enough people being employed to perform it to create a safe environment. A volunteer will not need to possess a certificate provided they are not paid to perform the work in question.

Training requirements

The Bill will enable training requirements to be prescribed for security and private investigation staff. Cabinet has agreed that when the new legislation comes into force property guards, personal guards, and crowd controllers will all have to undertake mandatory training. The detailed training requirements have yet to be developed, and will be developed in consultation with the hospitality and security industries as well as industry training bodies. It is intended that some of

the mandatory training will be specifically aimed at teaching security staff how to avoid causing positional asphyxia if they have to restrain someone.

The training requirements are expected to significantly improve safety for both the security staff themselves and also those they come into contact with. But, in particular, it is expected to improve safety for bar patrons, bar staff, and crowd controllers.

Rules of conduct including possible codes of ethics

The Bill retains existing restrictions on how private investigators and their staff are allowed to carry out their work. It also retains the existing provision for introducing codes of ethics by regulation for persons licensed under the Act.

Offence provisions modernised and penalties increased

The Bill will modernise offence provisions in the legislation governing security staff. Penalties for offences will significantly increase to a level where, while remaining proportionate to the offences committed, they provide an effective deterrent to offending. The present maximum fine for an offence against the Act is \$2,000. In future, the maximum fine under the Act, for operating an unlicensed business, will be \$40,000 for an individual and \$60,000 for a corporation.

In addition, the maximum financial penalty that can be imposed by the Licensing Authority will be increased from \$500 to \$2,000.

Administration and enforcement

The criteria for determining who is to be licensed under the Act will be specified primarily in terms of objective factors. However, the Licensing Authority will retain discretion to assess the suitability of the applicant regarding his or her character, circumstances, and background.

The Bill will also provide a legislative framework which facilitates having more accurate and accessible online registers and more accurate and easier to access licensing statistics.

In addition, it will create a dedicated enforcement and prosecution unit, the Complaints, Investigations, and Prosecutions Unit, funded from licensing revenue to enforce the requirements of the Act.

The steps described in the last 2 paragraphs, taken together with the increases in penalties, are expected to significantly reduce the number of unlicensed operators working in the industry.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on a date to be appointed by the Governor-General by Order in Council. Different commencement dates may be appointed for different provisions. It is intended that the provisions for the appointment of the Private Security Personnel Licensing Authority (in *Part 5*) will come into force before the rest of the Bill. The reason for the Order in Council commencement is that regulations and other administrative preparations need to be completed before the Bill can be brought into force.

Part 1

Preliminary provisions

Clause 3 is the purpose clause.

Clause 4 defines certain terms used in the Bill.

Clauses 5 to 11 define **private investigator**, **security technician**, **security consultant**, **confidential document destruction agent**, **property guard**, **personal guard**, and **crowd controller**.

Clause 12 allows the Governor-General by Order in Council to declare that a person (who would otherwise fall within 1 of the categories in *clauses 5 to 11*) is not a person within that category.

Paragraph (a) is in substantially similar terms to sections 3(5) and 4(4) of the Private Investigators and Security Guards Act 1974 (the **existing Act**).

Clause 13 defines the various classes of **responsible employee**. For each category of business described in *clauses 5 to 11* an individual who is employed or engaged to do that particular work is defined as a responsible employee under this clause. The classes therefore are **private investigator employee**, **security technician employee**, **security consultant employee**, **confidential document destruction agent employee**, **property guard employee**, **personal guard employee**, and **crowd controller employee**.

This clause allows the Governor-General by Order in Council to declare that a person, who would otherwise fall within the definition of crowd controller employee, is not a crowd controller employee.

Clause 14 provides that the Bill binds the Crown. However, under *clause 15*, Crown employees and certain others are not required to hold licences or certificates of approval under the Bill.

Clause 15 provides that the Bill does not require any of the following to hold a licence or certificate of approval:

- members of the police in respect of their employment by the Commissioner of Police, and the Commissioner of Police;
- employees of the Crown in respect of that employment;
- a person carrying on an occupation or business in accordance with a practising certificate, licence, permit, or other authority under any other enactment.

Part 2

Licences and certificates

Subpart 1—Licences

Who must be licensed

Clause 16 provides that the following persons must hold a licence under the Bill:

- a private investigator;
- a security technician;
- a security consultant;
- a confidential document destruction agent;
- a property guard;
- a personal guard;
- a crowd controller.

A person who contravenes this clause commits an offence and is liable on conviction to a fine not exceeding \$40,000 (or \$60,000 for a body corporate).

Grounds of disqualification: licences

Clauses 17 and 18 set out certain grounds of disqualification applicable to applicants for licences. The grounds in *clause 17* are applic-

able to individuals. The grounds in *clause 18* are applicable to companies.

Applying for licence

Clauses 19 and 20 set out the requirements for applying for a licence. *Clause 21* provides that on receipt of an application the Licensing Authority—

- may make whatever inquiries it considers necessary in order to determine whether or not the application should be granted; and
- may ask for a report from the Complaints, Investigation, and Prosecution Unit on the application.

Clause 22 provides for notice of the application to be given to the police and to the public.

Objections

Clause 23 provides that the police may object to the granting of the application.

Clause 24 provides that any other person may object to the grant of the application and sets out the grounds on which an objection may be made.

Hearing of application

Clause 25 provides for the process of holding a hearing into the application.

Clause 26 provides that the Licensing Authority may—

- grant an application without holding a hearing if there are no notices of objection;
- refuse an application if the Authority is unable to verify the information in it.

Decision on application

Clause 27 provides that if an applicant is applying to carry on more than 1 of the classes of private security business the Licensing Authority must assess the application separately in respect of each class of business.

Clause 28 sets out the tests to be applied to the application and pre-conditions to the granting of a licence as follows:

- the applicant must be of or over 18 years of age:
- if the applicant is a company every officer of the company must be of or over 18 years of age:
- the application must have been correctly and completely made (*clauses 19 and 20*):
- if the applicant has none of the disqualifying factors in *clauses 17 or 18*, the Licensing Authority must grant the application unless the Licensing Authority is satisfied, based on some other evidence adduced at the hearing relating to the character, circumstances, or background of the applicant, that the applicant is not suitable to carry on that business:
- if the applicant has 1 or more of the disqualifying factors in *clauses 17 or 18*, the Licensing Authority may grant the application only if the Licensing Authority is satisfied that the applicant is suitable to carry on that business. The Licensing Authority must take into account the 1 or more disqualifying factors and any other evidence adduced at the hearing relating to the character, circumstances, or background of the applicant.

These tests replace the proper person test in section 26 of the existing Act.

The Licensing Authority may impose conditions on the licence.

Issue, duration, etc, of licence

Clause 29 provides for the issue of a licence to a successful applicant.

Clause 30 provides that the licensee is authorised to carry on the class or classes of private security business for which the licence is issued from the place of business specified in the licence. The licensee may carry on that class or those classes of business in partnership with another person who is also licensed.

Clause 31 provides that the licence is in force for 5 years unless cancelled earlier.

Clause 32 requires the Licensing Authority to notify the police when a licence is issued.

*Temporary certificate of approval for applicant
for licence*

Clause 33 provides that if an individual has applied for a licence the individual may request that he or she be issued with a temporary certificate of approval. If so, the application for the licence will be treated as if it were an application for a certificate and will be assessed accordingly under *clause 55*.

General provisions, amendments, renewals, etc

Clause 34 provides that, unless the Licensing Authority approves, a licensee other than a company must carry on business—

- in his or her own name; or
- in the case of a firm, the name of 1 of the partners.

A company licensee must carry on the business in the name by which it is registered or incorporated.

This clause is substantially similar to section 31 of the existing Act.

Clause 35 requires a company licensee to obtain the approval of the Licensing Authority when a new officer of the company is appointed. It replaces section 32 of the existing Act but differs that, in the new clause,—

- the test to be applied by the Licensing Authority when deciding whether or not to approve the new officer is different, to be consistent with the tests for granting a licence in the Bill; and
- the penalty for non-compliance is a fine not exceeding \$20,000.

Clause 36 provides that a licensee may apply to have 1 or more new classes of private security business added to the licensee's licence. The new class or classes are assessed in the same way as if there were an application for a licence in respect of that class or those classes.

Clause 37 provides for the renewal of licences.

Clause 38 provides for annual updating of information by a licensee. At 12-monthly intervals after the date of issue of the licence the licensee must send in a return to the Licensing Authority advising—

- whether there has been any change to the licensee's registered office or place or places of business; or
- whether details relating to a responsible employee of the licensee have changed.

If a licensee fails to comply with this requirement the licence is suspended and the licensee commits an offence.

This clause has no counterpart in the existing Act. Under the existing Act licences are required to be renewed annually.

Subpart 2—Certificates of approval

Who must hold certificate of approval

Clause 39 provides that no individual may be employed, engaged as a contractor, act, or hold himself or herself out as a responsible employee (as defined in *clause 13*) unless that individual holds a certificate of approval.

A person who contravenes this clause commits an offence and is liable on conviction to a fine not exceeding \$20,000.

Clause 40 provides that—

- no licensee may employ, engage as a contractor, or permit to act as a responsible employee any individual who does not hold a certificate of approval; and
- in the case of crowd control work, no person, not being a licensee, may employ, engage as a contractor, or permit to act as a responsible employee any individual who does not hold a certificate of approval.

A person who contravenes this clause commits an offence and is liable on conviction to a fine not exceeding \$20,000.

Grounds of disqualification: certificates of approval

Clause 41 sets out certain grounds of disqualification applicable to applicants for certificates of approval.

Applying for certificate of approval

Clause 42 sets out the requirements for applying for a certificate of approval.

Clause 43 provides that on receipt of an application the Licensing Authority—

- may make whatever inquiries it considers necessary in order to determine whether or not the application should be granted; and

- ask for a report from the Complaints, Investigation, and Prosecution Unit on the application.

Clause 44 provides for notice of the application to be given to the police.

Objections

Clause 45 provides that the police may object to the grant of the application.

Hearing of application

Clause 46 provides for the process of holding a hearing into the application.

Clause 47 provides that the Licensing Authority may—

- grant an application without holding a hearing if there are no notices of objection:
- refuse an application if the Authority is unable to verify the information in it.

Decision on application

Clause 48 provides that if an application relates to more than 1 class of responsible employee the Licensing Authority must assess the application separately in respect of each class.

Clause 49 sets out the tests to be applied to the application and pre-conditions to the granting of a licence as follows:

- the applicant must be of or over 18 years of age (except for confidential document destruction agent employees and property guard employees):
- the application must have been correctly and completely made (*clause 42*):
- if the applicant has none of the disqualifying factors in *clauses 17 or 18*, the Licensing Authority must grant the application unless satisfied, based on some other evidence adduced at the hearing relating to the character, circumstances, or background of the applicant, that the person is not suitable to carry on that business:
- if the applicant has 1 or more of the disqualifying factors in *clauses 17 or 18*, the Licensing Authority may grant the appli-

cation only if the Licensing Authority is satisfied that the applicant is suitable to be a responsible employee of that class. The Licensing Authority must take into account the 1 or more disqualifying factors and any other evidence adduced at the hearing relating to the character, circumstances, or background of the applicant.

These tests replace the proper person test in section 40 of the existing Act.

The Licensing Authority may impose conditions on the certificate of approval.

Issue, duration, etc, of certificate of approval

Clause 50 provides for the issue of a certificate to a successful applicant.

Clause 51 sets out the effect of a certificate of approval.

Clause 52 provides that the certificate is in force for 5 years unless cancelled earlier.

Clause 53 requires the Licensing Authority to notify the police when a certificate is issued.

Clause 54 provides for the renewal of certificates.

Temporary certificates

Clause 55 provides for the issue of a temporary certificate to a person who has applied for a certificate, provided that certain conditions are met.

Emergency appointments of responsible employees

Clause 56 provides that in certain circumstances a person may employ, engage, or permit a person to act as a responsible employee even though the person does not have a certificate of approval. Those circumstances are where the employer has insufficient responsible employees due to an emergency or illness. Certain pre-conditions must be satisfied, and the appointment may be on a temporary basis only.

Part 3

Responsibilities of licensees and certificate holders

Clause 57 provides that a licensee must produce his or her licence on demand by—

- the Licensing Authority; or
- a member of the police; or
- a person authorised by the person in charge of the Complaints, Investigation, and Prosecution Unit; or
- a person with whom the licensee is dealing in the course of the business to which the licence relates.

This clause is substantially similar to the obligation to produce a licence contained in section 45 of the existing Act except for the additional reference to the Complaints, Investigation, and Prosecution Unit.

Clause 58 similarly provides for the production on demand of certificates of approval. It is in similar terms to section 46 of the existing Act except for the additional reference to the Complaints, Investigation, and Prosecution Unit.

Clause 59 requires holders of licences and certificates of approval to wear the licence or certificate when carrying out the work concerned. The exception to this is private investigators and private investigator employees.

Clause 60 requires licensees and certificate holders to comply with any requirement to keep records that may be prescribed in regulations. Failure to comply is an offence punishable on conviction by a fine of up to \$2,000.

Clause 61 provides that a licensee or certificate holder must, when required by a member of the police or a person authorised by the chief investigator of the Complaints, Investigation, and Prosecution Unit,—

- show the person any record or document required to be kept under the regulations;
- make a copy or temporarily give the person the record or document.

Clause 62 requires a responsible employee to notify the Licensing Authority when the responsible employee changes employers. This

clause replaces section 47 of the existing Act. It differs from that section in that, in section 47, the obligation to notify is on the (licensee) employer not the certificate holder.

Clause 63 requires a certificate holder to advise the Licensing Authority if details included in the application for the certificate change.

Clause 64 requires a private investigator to display notices at his or her place of business stating that he or she is a private investigator. This clause is in similar terms to section 48 of the existing Act.

Clause 65 requires a private investigator to render an account to his or her client within a certain time. This clause is in similar terms to section 51 of the existing Act although the penalty for breaching this clause differs from that section.

Clause 66 restricts the taking, and use, of photographs and other recordings by a private investigator or private investigator employee in the course of or in connection with the business of a private investigator. This clause is in similar terms to section 52 of the existing Act although the penalty for breach is increased from \$2,000 to \$20,000.

Part 4

Discipline

Complaints

Clause 67 provides that a member of the police, or other person with leave of the Authority, may complain to the Authority about a licensee on certain specified grounds.

Clause 68 provides that a member of the police, or other person with leave of the Authority, may complain to the Authority about a certificate holder on certain specified grounds.

Clause 69 provides that on receipt of a complaint the Authority may send a copy of it to the police or the Complaints, Investigation, and Prosecution Unit for investigation and report. This clause also provides that if the Authority suspects that there may be grounds for complaint against a licensee or certificate holder the Authority may—

- refer the matter to the police for the police to decide whether to file a complaint; or
- refer the matter to the Complaints, Investigation, and Prosecution Unit for investigation and report.

Clause 70 provides the Authority with a power to suspend a licence or certificate if a complaint is made against the holder of it. This clause is in similar terms to section 55 of the existing Act.

Disciplinary hearing

Clause 71 sets out the grounds for, and procedure for, a disciplinary hearing. The Authority must hold a disciplinary hearing if a complaint has been made against a holder of a licence or certificate. It may hold a disciplinary hearing if it has received a report requested under *clause 69(2)* and suspects that there may be grounds for disciplinary action against a holder of a licence or certificate.

Powers of Authority—licensees

Clause 72 sets out the powers that the Authority has if, following a disciplinary hearing against a licensee, the Authority is satisfied that the grounds for disciplinary action are proved. The Authority—

- must cancel the licence if *clause 73* applies;
- may cancel the licence if *clause 74* applies;
- may also suspend the licence, fine or reprimand the licensee, or, in the case of a company, order the company to terminate an officer's employment.

Clause 73 sets out grounds on which cancellation of the licence under *clause 72* is mandatory.

Clause 74 sets out the grounds on which the Authority has, under *clause 72*, a discretion to cancel the licence.

Powers of Authority—holders of certificates of approval

Clause 75 sets out the powers that the Authority has if, following a disciplinary hearing against a certificate holder, the Authority is satisfied that the grounds for disciplinary action are proved. The Authority—

- must cancel the certificate of approval if *clause 76* applies;
- may cancel the certificate of approval if *clause 77* applies;
- may also suspend the certificate of approval or fine or reprimand the certificate holder.

Clause 76 sets out the grounds on which cancellation of the certificate of approval under *clause 75* is mandatory.

Clause 77 sets out the grounds on which the Authority has, under *clause 75*, a discretion to cancel the certificate of approval.

General provisions

Clause 78 provides for proof of convictions in proceedings before the Licensing Authority. It is in substantially similar terms to section 61 of the existing Act.

Clause 79 provides for the return to the Authority of cancelled and suspended licences and certificates of approval. It is in substantially similar terms to section 62 of the existing Act.

Clause 80 provides that nothing in this Part limits or affects any other provisions in the Bill about punishment of offences. It is in substantially similar terms to section 63 of the current Act.

Part 5

Licensing Authority and Complaints, Investigation, and Prosecution Unit

Licensing Authority

Clauses 81 to 89 provide for the establishment of a Private Security Personnel Licensing Authority. The Authority will replace the office of Registrar under the existing Act.

Registers

Clauses 90 to 92 provide for the establishment and maintenance of a register of licensees and a register of certificate holders.

Complaints, Investigation, and Prosecution Unit

Clause 93 requires the chief executive of the responsible department to provide a Complaints, Investigation, and Prosecution Unit. The unit will have a chief investigator. The unit will have the functions and powers conferred by the Bill.

Part 6

General and miscellaneous provisions

General provisions

Clause 94 allows for appeals to a District Court against certain decisions of the Licensing Authority.

Clause 95 provides that a member of the police or a person authorised by the chief investigator of the Complaints, Investigation, and Prosecution Unit may ask a person's name, address, and date of birth if the questioner has reasonable cause to suspect the person of an offence against the Bill.

Clause 96 makes it an offence against the Bill to provide false information to the Licensing Authority, a person authorised by the Complaints, Investigation, and Prosecution Unit, or a member of the police.

Clause 97 deals with the liability of officers of a company for offences against the Bill committed by the company.

Clause 98 provides for a general penalty for offences against the Bill if no other penalty is specified.

Clause 99 provides a defence to a charge of failing to show documents, etc.

Clause 100 provides for the Licensing Authority to waive a ground of disqualification under *clause 17, 18, or 41* where an event occurs that means 1 or more grounds of disqualification now apply to a licensee or certificate holder. That ground of disqualification would otherwise be a possible ground for taking disciplinary action against the licensee or certificate holder.

Miscellaneous provisions

Clauses 101 to 109 are miscellaneous provisions. *Clause 102* has no counterpart in the existing Act. It makes it an offence for a person who does not have the appropriate licence or certificate to wear any form of dress or insignia that misleads people into thinking that the person is a property guard, personal guard, or crowd controller or equivalent responsible employee.

Repeals and amendments

Clause 110 repeals the Private Investigators and Security Guards Act 1974.

Clause 111 amends other enactments.

Clauses 112 to 116 are transitional provisions.

Regulatory impact statement*Executive summary*

The private security industry, which includes private investigators, performs a wide range of activities relating to the prevention and detection of disorder and criminal offending. It is also involved in other activities that have little to do with criminal offending. For example, a private investigator may gather information for use in civil litigation or for other purposes.

The preferred option is to repeal and replace the Private Investigators and Security Guards Act 1974 with the Private Security Personnel and Private Investigators Bill. The Bill builds on the current Act and introduces the following key reforms:

- measures to allow more effective and efficient administration and enforcement of the Act, including the creation of a dedicated enforcement unit and a move from annual licensing to 5-yearly licensing;
- offence provisions will be updated and the maximum penalties that can be imposed upon conviction will be increased. The financial penalties that the Licensing Authority can impose following a disciplinary hearing will also be increased;
- the licensing requirements will be clarified and extended. In particular, for the first time, personnel providing crowd control services (including bouncers on licensed premises) will have to be licensed, regardless of whether they are employed by a business offering security services for hire or a business offering some other service (eg, a bar);
- it will be possible to specify training requirements as a condition of licensing and require that property guards, personal guards, and crowd controllers must be trained.

Existing legal restrictions on private investigators, including the prohibition on covert photography and audio-recording, will remain in

place, as will the power to prescribe a code of conduct/ethics for any class of licensee.

Adequacy statement

The Ministry of Justice has reviewed this regulatory impact statement (**RIS**) and confirms that the RIS is adequate according to the criteria agreed by Cabinet, and that the principles of the Code of Good Regulatory Practice and the regulatory impact analysis requirements have been complied with.

Status quo and problem

The private security industry generates both public and private benefits which, for the most part, are closely aligned. However, sometimes they are not closely aligned. For example, while private investigators perform a wide range of services that yield a substantial public benefit, such as investigating possible offending, some of their activities may only benefit those for whom they are gathering information.

There are substantial resource costs associated with the operation of the security industry. In addition, there is also a range of risks associated with security work: risks to persons, to property, and to the right to privacy. The benefits, costs, and risks fall on security personnel and businesses offering security services, on their clients, on private individuals and businesses providing their own security, and on third parties.

Under the current Act persons are required to be licensed if running businesses—

- as private investigators:
- installing burglar alarms or similar warning devices, or security cameras, or locking devices for safes or strongrooms on properties:
- entering premises to sell, or attempt to sell, a burglar alarm or security camera or similar warning device; to advise on the desirability of having such a device installed; or to advise on the desirability of having those or other premises guarded:
- guarding properties, or monitoring burglar alarms or similar warning devices, or monitoring security cameras.

Similarly, anyone employed or engaged to perform such work must have a certificate of approval issued under the Act.

Various factors, including criminal offending, are taken into account in deciding whether a particular person may be licensed.

The number of persons licensed under the Act has varied considerably in recent years, but is expected to average around 10 000 persons.

The following were identified as possible weaknesses of the existing legislation:

- currently licences and certificates expire on 31 March every year, but annual relicensing is expensive and substantial benefits from requiring such frequent licensing are not apparent:
- enforcement of the Act is the responsibility of the police, but other work means that the police are unable to give this a high priority:
- maximum penalties that can be imposed under the Act are low in comparison with other occupational regulatory schemes and may not provide an effective deterrent, even if there was better enforcement:
- section 52 of the current Act prohibits private investigators and their staff from taking photographs or audio-recordings of persons without the subject's written consent (except for a narrow range of purposes). That protects the subject's right to privacy, but also limits the ways in which private investigators can do their work. The New Zealand Institute of Professional Investigators strongly opposes retaining section 52:
- there are significant risks associated with crowd controllers (whether door staff at bars and nightclubs or core security personnel at major events) and personal guards (whether operating as bodyguards or guarding persons in custody), but they are not required to be licensed:
- there is no provision for mandatory training of persons licensed under the Act.

Policy objectives

The policy objectives are—

- balancing the need to ensure that persons offering security services for hire and private security personnel are appropriately qualified against the need to avoid unnecessary compliance costs;
- ensuring that those running businesses offering security services for hire or performing various security-related roles are subject to appropriate legal restrictions, taking into account the compliance costs;
- fair and efficient administration and enforcement of the Act that is independent of control by the industry itself.

Options for reform

A number of options for reform were considered in each of the areas of possible weakness identified above.

Administration and enforcement

Licensing board

Licensing and disciplinary decisions under the current Act are made by the Registrar of Private Investigators and Security Guards. The Registrar is appointed, with security of tenure for a 3-year term, by the Minister of Justice and provided with administrative support by the Ministry of Justice. The Registrar's decisions can be appealed to the District Court.

The possibility of a licensing board, perhaps with industry involvement, was considered. However, the workload appears unlikely to justify more than a 1-person licensing authority. A 1-person Licensing Authority appointed with security of tenure for a fixed term and with a right of appeal to the District Court maintains independence.

The volume of work also appears unlikely to justify a unit providing administrative support to the licensing authority that is not located within a larger organisation. The Ministry of Justice seems well-suited to the role, although improvements in administration are needed.

The decision was taken to retain much of the same structure as at present, though with the potential to appoint a Deputy Licensing Authority if the need arises.

Enforcement

Demands on police resources mean that the police cannot prioritise enforcement of offences under the Act. For instance, only 5 prosecutions in the District Court for breaches of the Act have been undertaken since 1 January 2000. There appear to be significant numbers of unlicensed operators in the industry, although the size of the problem is difficult to gauge.

Continuing to allow what appears to be relatively widespread non-compliance is inappropriate. The decision was therefore taken to create a dedicated enforcement body funded from licensing revenue to carry out investigations and provide information to the Licensing Authority and to carry out prosecutions (the Complaints, Investigation, and Prosecution Unit).

Frequency of licensing

The option of continuing with annual licensing was considered. However, it does not appear that requiring the annual renewal of licences would address the problem of industry participants failing to obtain licences or certificates any more effectively than requiring licences to be renewed less frequently would.

Increasing the period between licensing renewals would lower the costs associated with licensing. There appear to be few risks associated with requiring licences to be renewed only every 5 years.

The decision was therefore taken to require licensees to renew their licences every 5 years, and re-register annually. When re-registering, the licence-holder will be asked to verify their contact details and list the certificate holders who are working for them.

Penalties

Maximum penalties under the Act are low in comparison with other occupational regulation regimes and may not provide an effective deterrent to offending. The maximum fine that can be imposed by the courts is \$2,000.

The decision was therefore taken to increase penalties to levels that are not inconsistent with other occupational regulatory schemes and that will more effectively deter offending. In particular, the penalty for operating an unlicensed security business will go up from \$2,000 to \$40,000 for an individual and to \$60,000 for a company.

Requirement to be licensed

The fees for licences and certificates, together with various other costs associated with licensing (such as the cost of preparing an application and some District Court costs relating to licensed persons), need to be set against the benefits of licensing people. By far the most significant costs here will be licensing fees.

The benefits of licensing are more difficult to quantify than the costs. They relate to excluding persons who would perform security-related work who present as unsuitable according to specified criteria, which means reduced risks to persons, to property, and to the right to privacy.

Persons currently required to be licensed

There would be substantial additional risks from having violent or dishonest people performing the roles that currently require a licence or certificate, and there appears to be little scope to remove the obligation to be licensed under the Act for these activities.

A possible exception is where there is either dual licensing or possibly a professional organisation with suitable and stringent membership requirements. Regulation-making power has been put in the Bill to enable exemptions to be granted in such cases, although this is expected to be rarely used.

The decision was therefore made that everyone currently required to be licensed should continue to be required to be licensed (unless exempted by regulation).

Removing ambiguity in current licensing provisions

There was also some ambiguity around the limits of existing definitions, so changes have been made in the Bill to—

- more widely define the circumstances in which a person running a business that involves entering premises to advise on

security matters, and their employees engaged in that work, should be licensed:

- clarify that a person running a business responding to security alerts, and their employees engaged in that work, should be licensed;
- clarify that a person running a business collecting and disposing of confidential documents, and their employees engaged in that work, should be licensed.

Addressing gaps in the legislation

It is also apparent that there are some major gaps in the existing legislation. Persons running businesses guarding property are required to be licensed, along with any of their employees engaged in that work. However, people running businesses providing crowd control services (regulating entry to premises, maintaining order on premises, or removing persons from premises—work that is mostly done in and around where alcohol is sold and consumed) are not required to be licensed, and neither are the employees doing the work. There is a similar gap in respect of persons running businesses supplying body-guard services or staff to guard prisoners, and any of their employees engaged in that work.

The risks that would result from having violent or dishonest people doing this work are, if anything, generally even greater than the risks associated with them doing work that currently requires a licence. The gap in respect of crowd control services is particularly problematic, given the level of violence associated with alcohol and places where alcohol is sold and consumed.

The decision was therefore made to extend licensing to—

- require a person running a business providing crowd control services (regulating entry to premises, maintaining order on premises, or removing persons from premises) to be licensed, as well as any of their employees engaged in that work; and
- require a person running a business guarding others to be licensed (a **personal guard**), as well as any of their employees engaged in that work.

The definition of **crowd controller** and the regulation-making power in the Bill are intended to ensure that the impact of extending licens-

ing is not unduly onerous, and that the costs are proportionate to the expected benefits (eg, in the case of event security).

Consideration was then given to whether in-house security staff should also be licensed (ie, where a business does not engage an external security services provider, but rather employs security personnel directly).

Benefits and costs in this area are difficult to quantify. Only in the case of crowd controllers was there felt to be a situation where the benefits of licensing in-house security personnel would clearly outweigh the costs. An additional consideration here is that many of the risks associated with poor work by crowd controllers clearly fall on persons other than the person or business that hired them.

The decision was therefore taken to require persons who are employed as crowd controllers to be licensed, even if they do not work for businesses offering those services to others (eg, even if they work directly for a bar, rather than for a separate business providing crowd control services to that bar).

Impact of changes in the licensing requirements

It is estimated that these proposals will result in approximately 1 250 persons acquiring licences and a further 16 750 acquiring a certificate of approval in the first year of the new regime's operation. There is expected to be an average of approximately 20% turnover in the industry each year (excluding movements within the industry).

Training

The current Act does not require security personnel to undertake mandatory training in order to become or remain licensed. Having competent personnel is important and a decision was therefore made to provide regulation-making power that would permit introducing mandatory training for any class of licensee.

It was considered that the high risks associated with crowd control and guarding property or individuals justify some mandatory training of security staff in these categories. However, the amount of training that is desirable is more difficult to establish.

In England and Wales the mandatory training requirements for persons licensed to perform this and similar work is designed to take

around 30 hours to complete. In all Australian jurisdictions training requirements are greater.

Contrary to those practises, in New Zealand there is a well-regarded course for door staff at licensed premises—and most crowd controllers are expected to be primarily employed as door staff in licensed establishments. This involves only two 3-hour sessions of contact time, plus an additional assessment session. However well run, there are severe limitations on what can be taught in such a brief time.

With the training requirements still having to be prescribed, any costing of the training requirements is difficult. Costings have been carried out on the assumption that training requiring an average of approximately 12 to 18 hours of contact time will be prescribed for employees. This is based on preliminary research by officials, which included attending the well-regarded course for door staff referred to above. It is estimated that this training would cost approximately \$300 per person.

Up to 75% of those required to hold certificates of approval are expected to fall within the categories where training will be mandatory—namely, employee property guards, employee personal guards, and employee crowd controllers.

However, not all persons in these categories will undertake training—

- it is expected that there will be some limited grandparenting arrangements that reduce the number required to undertake training in the first year, even if they cannot produce evidence of prior training. Then in the first and subsequent years there will be people who will be able to be exempted because they can produce evidence of prior training. The details of these arrangements are still to be determined and this will be dealt with in regulations;
- a significant number of those who acquire temporary certificates of approval are expected to drop out of the industry before undertaking the training.

Some employees in the first and subsequent years will have undertaken some sort of training anyway, even if it was not mandatory. The cost of this should not be counted as a cost against the new regime, as it would have occurred anyway. Licence holders can be expected

to be considerably better trained than most of their staff, and the cost of the new regime for them, when it is prescribed, may be considerably less than for employees, again because so much of it would have occurred anyway.

Legal restrictions, covert photography, and audio recording

Licensees currently have no powers (such as powers of arrest) greater than those of a member of the public. The current Act allows for regulations to introduce a code of ethics governing any class of licence holder within the industry, but this power has not been used.

The Bill contains regulation-making power enabling a code of conduct to be prescribed for any class of licensee. Some overseas jurisdictions, including jurisdictions in Australia, have such codes in place for some categories of licensees in the security industry, and it may become desirable to introduce such codes here.

The current Act imposes a number of legal restrictions on how private investigators may operate. The restriction that has attracted the most attention is section 52, which prohibits photographing or audio-recording people without their consent.

Alternatives to section 52 were considered. However, covert surveillance clearly does bring potential for abuse. Recent incidents in New Zealand, including some high profile incidents, clearly raise the prospect that significant numbers of private investigators may irresponsibly use the power to photograph and audio-record people without their consent, if given this power. The decision was therefore taken to retain the existing approach.

Preferred option

The preferred option is to repeal and replace the existing Act with a new regime that builds on existing occupational regulation of the security industry and contains the following elements:

- new measures will be introduced to improve administration and enforcement of the regulatory regime. These include the creation of a dedicated enforcement unit to police the statutory requirements, and a move from annual licensing to 5-yearly licensing to eliminate unnecessary compliance costs;
- the penalties for breaches of the regulatory regime will be strengthened. Offence provisions are updated and the maxi-

mum fines on conviction will be increased from \$2,000 to \$40,000 for an individual and to \$60,000 for a company for the most serious offence (running a business without a licence). The maximum financial penalties the Licensing Authority can impose on individual licensees following a disciplinary hearing will be increased from \$500 to \$2,000:

- persons running businesses or performing various security-related roles will be subject to appropriate legal restrictions on their behaviour. The Bill makes no changes in this area and, in particular, the existing law prohibiting private investigators from taking photographs or audio-recordings without the subject's written consent (except for a narrow range of purposes) will remain;
- persons will be prevented from running businesses that offer various security services and/or perform various security-related work if it appears that allowing them to do so will result in unacceptable levels of risk. Anyone who must currently be licensed will have to be licensed under the new regime, and licensing requirements will be clarified and extended to include personal guards, crowd controllers, employee personal guards, and employee crowd controllers. Employee crowd controllers will have to be licensed even if they are not working for someone who offers security services for hire.
- where appropriate, persons running businesses offering security services for hire or performing security-related work, must receive appropriate training. Unlike the current Act, the proposals will make it possible to specify training requirements as a condition of licensing. It has been decided that property guards, personal guards, crowd controllers, and employee property guards, employee personal guards, and employee crowd controllers will all be required to be trained.

Implementation and review

Indicative fees for the new regime are set out in the table below:

Activity	Fee (GST inclusive)
Application for new 5-year licence for an employer or self-employed person; plus annual registration fee. <i>1-year licence currently costs \$120 and there is no registration fee.</i>	5-year licence fee: \$725 for a company, \$600 for an individual. Registration fee in non-licensing years: Non-employers no fee, employers \$30 per licensed employee (with a minimum of \$90 and a maximum of \$600).
Application for new 5-year certificate for an employee. <i>Currently a 1-year certificate costs \$80.</i>	\$200 for a 5-year certificate (includes an initial temporary certificate if required, which may be issued following a check for convictions but before the full licensing requirements are completed).
Application for change of employer for certificate holder. <i>Currently \$20.</i>	no charge
Application for change to class of licence or certificate and/or grade of certificate or licence, or application for approval of new director. <i>Currently varies from no charge to \$120, depending on the type of change.</i>	\$75
Application for duplicate or replacement licence or certificate of approval. <i>Currently \$20.</i>	\$45
Register search. <i>Currently no charge.</i>	no charge

These indicative fees have been calculated so as to allow full recovery of the costs, including the establishment costs, associated with both the Licensing Authority's work and the costs of running the new

dedicated enforcement body. Existing fees do not presently fully cover the costs associated with the existing Licensing Authority's work.

Indicative costs of preferred option

The following are indicative costs only. It also includes costs to people who should be licensed now, but are not (possibly several thousand people).

Private sector*Existing costs to private sector*

The total costs of licensing under the proposed new regime need to be set against expected licensing costs under the present regime of approximately \$880,000 in fees per annum.

Licensing fees

Total licensing fees for the new regime are estimated at approximately—

- year 1: \$4,350,000;
- years 2 to 5: \$1,220,000.

Additional training costs

Additional training costs from mandatory requirements are estimated as being in the following order:

Total additional financial cost to the private sector

The total additional financial cost to the private sector is therefore estimated as being in the following order:

- year 1: \$1,670,000;
- years 2 to 5: \$480,000.

Total additional financial cost to the private sector

The total additional financial cost to the private sector is therefore estimated as being in the following order:

	Year 1 (\$)	Years 2 to 5 (\$)
Licensing fees	3,470,000	340,000
Additional training costs	1,670,000	480,000
Total additional costs	5,140,000	820,000

Public costs

The public cost of new licensing is expected to be covered by fees, except for some enforcement activity that may be carried out by the police (the dedicated enforcement unit funded from licensing fees will have primary responsibility for enforcement) and some District Court and Legal Aid costs related to appeals against decisions of the Licensing Authority and prosecutions. These costs are expected to be small and easily covered by savings to the public sector generated by the impact of having more effective private security services.

This is an improvement on the existing regime, as currently the cost to the State of administering the licensing regime exceeds the income received from licensing fees by several hundred thousand dollars per year.

Benefits of preferred option

The main benefits of the preferred option are—

- persons who should not be working in the industry will be more effectively excluded:
- increased competency standards within the industry as persons providing property guarding, personal guarding, and crowd control services will be required to undertake training:
- a significant reduction in offending and the costs associated with that.

Implementation and review

The proposals will be implemented through the passage of the Private Security Personnel and Private Investigators Bill and related regula-

tions. The Private Security Personnel Licensing Authority will be responsible for ensuring that those affected by the Bill are aware of their obligations.

Consultation

Stakeholder consultation

Targeted consultation was carried out with stakeholders in 2001 to 2003 and again in 2007. Stakeholders consulted included the Hospitality Association of New Zealand, the New Zealand Institute of Professional Investigators, the Red Badge Group, the Police Association, the New Zealand Security Officers Association, the Māori Wardens Association, the Electrical Contractors Association, the Master Locksmiths Association of Australasia Ltd, ASIS International, and Online Security Services.

The majority of the responses received were in support of reforms to the existing regime, broadly along the lines of the reforms proposed in the preferred option. However, opposition and reservations concerning specific aspects of the reform were also expressed. Among the responses received—

- the New Zealand Security Officers Association expressed strong support for the reforms generally, although it would prefer a licensing board coupled with industry involvement in the governance of the industry;
- the Hospitality Association of New Zealand expressed concerns about the costs associated with the extension of licensing to crowd controllers, the likely costs of training crowd controllers, and the need to ensure appropriate training. The Red Badge Group noted that many of those working in events security performed relatively low-risk roles just a few times a year, and suitable arrangements would need to be worked out to reflect this;
- the New Zealand Institute of Professional Investigators strongly opposed retaining the existing law that prohibits private investigators from taking photographs or audio-recordings without the subject's written consent (except for a narrow range of purposes).

The feedback received from stakeholders was considered in the course of developing and evaluating the various options. In particular, it was determined that—

- the governance structure for the industry needs to be clearly independent of the industry;
- the risks associated with crowd control work indicate a strong need for both the licensing of and appropriate training for crowd controllers, but training requirements may not need to be as extensive as in some overseas regimes. In addition, licensing all persons who perform events security work would be excessive;
- the risk to the right to privacy justifies retaining the existing law prohibiting private investigators from taking photographs or audio-recordings without the subject's written consent (except for a narrow range of purposes).

Government departments/agencies and regulatory bodies

The following were consulted and their views considered during the development of these policies: the New Zealand Police, Treasury, the State Services Commission, the Ministry of Economic Development, the Office of the Privacy Commissioner, the Department of Labour, Crown Law, the Accident Compensation Corporation, the Civil Aviation Authority of New Zealand, the Department of Internal Affairs, Te Puni Kōkiri, the Ministry of Pacific Island Affairs, the Ministry of Women's Affairs, the Ministry of Social Development, the Alcohol Advisory Council of New Zealand, the Chair of the Liquor Licensing Authority, the Registrar of Private Investigators and Security Guards, and the Law Commission.

The Department of Prime Minister and Cabinet was informed.
