

Department of Justice

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Tasmania

Our Ref

24 December 2008

Australian Security Industry Association Ltd
P O Box 1338
CROWS NEST NSW 1585

RECEIVED
06 JAN 2009

BY:.....

Dear Sir/Madam,

Policy Document: Granting of Licences under the *Security and Investigations Agents Act 2002*

This Office intends to have the Policy Document (attached) certified by the Minister in terms of section 27 of the *Magistrates Court (Administrative Appeals Division) Act 2001* for use by the Office when there is an appeal against the Commissioner's decision not to grant a licence.

The relevant legislation is:

Section 8 of the *Security and Investigations Agents Act 2002* (the Act) provides for the Commissioner of Corporate Affairs to:

- grant an application for a licence to Security Guards and Crowd Controllers and Commercial, Security and Crowd Control Agencies subject to any conditions the Commissioner determines; or
- refuse to grant the application.

Section 37 of the Act a person may apply for a review of the decision of the Commissioner to:

- (a) refuse to grant an application for a licence; or
- (b) impose any condition of a licence; or
- (c) vary a condition of a licence; or
- (d) cancel a licence; or
- (e) suspend a licence.

A review of the Commissioner's decision is heard and determined by a Magistrate under the *Magistrates Court (Administrative Appeals Division) Act*.

Section 27 of the *Magistrates Court (Administrative Appeals Division) Act* states that in determining an application for a review of a reviewable decision, the Court must give effect to any relevant Government policy in force at the time the

reviewable decision was made, except to the extent that the policy is contrary to law or the policy produces an unjust decision in the circumstances of the case.

In terms of section 27(2) of this Act the Premier or any other Minister may certify, in writing, that a particular policy was Government policy in relation to a particular matter.

This certification of a policy document is evidence of the Government policy concerned, with the result that the Court is to take judicial notice of the contents of that certificate.

The attached policy has been drafted by me as Commissioner for Corporate Affairs to guide the process of granting and not granting licences.

It would assist the review process for this policy to be made available to the public and to be transparent for both applicants and the Magistrate.

I would appreciate your comments on this approach and any other advice that you think might be useful.

For further details about the above, please contact Nigel Garland on (03) 6233 4760 or Nigel.Garland@justice.tas.gov.au

Yours sincerely,



Nigel Garland
ASSISTANT COMMISSIONER FOR CORPORATE AFFAIRS