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An Evaluation of the Private Security Industry Regulations in Queensland : A Critique

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〈Abstract〉

The objective of this article is to inform and document the contemporary development of the private security industry in Queensland Australia, a premier holiday destination that provide entertainment for the larger region. The purpose of this review is to examine the comtemporary development of mandated licensing regimes regulating the industry, and the necessary reform agenda. The overall aim is threefold: first, to chart the main outcomes of the two-wave of reforms since the mid-`90s; second, to examine the effectiveness of changes in modes of regulation; and third, to identify the criteria that can be considered a best practice based on Button(2012) and Prenzler and Sarre's(2014) criteria.

The survey of the Queensland regulatory regime has demonstrated that, despite the federal-guided reforms, there remain key areas where further initiatives remain pending, markedly case-by-case utilisation of more proactive strategies such as on-site alcohol/drug testing, psychological evaluations, and checks on close associates; lack of binding training arrangement for technical services providers; and targeted auditing of licensed premises and the vicinity of venues by the Office of Fair Trading, a licensing authority. The study has highlighted the need for more determined responses and active engagements in these priority areas.

This study of the development of the licensing regimes in Queensland Australia provides

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useful insights for other jurisdictions including South Korea on how to better manage licensing system, including the measures required to assure an adequate level of professional competence in the industry. It should be noted that implementing a consistency in delivery mode and assessment in training was the strategic imperative for the Australian authority to intervene in the industry as part of stimulating police-private partnerships. Of particular note, competency elements have conventionally been given a low priority in South Korea, as exemplified through the lack of government-sponsored certificate; this is an area South Korean policymakers must assume an active role in implementing accredited scheme, via consulting transnational templates, including Australian qualifications framework.

주제어 : Queensland, Security Industry, Regulation, Industry Management, Specialisation

목 차

I. Introduction

Over the past 50 years, the private security industry has entered a remarkable mass-growth phase, which has by no means come to an end. However, this increasing prominence has coincided with an upsurge in the number of scandalous incidents associated with security providers. These include long-term problems with violence, fraud in contracting, and poor service standards. In the space of five decades, the expansion of the size and role of private security have led licensing authorities in many countries to introduce special legislation to govern its growth and development, and Australia is no exception. Since the 1980s, the security industry regulatory regime in Australia has undergone a wave of licensing reforms as a response to recurring and emerging issues. This article covers the transitional period of the 1970s-2000s and surveys three phases of development pathways: the pre-reform era(1970s); the first wave of reform(1980s-90s); and the second wave of reform(2000s-present). The objective of this study is to overview the progression of industry-specific regulations in-depth, presenting an inventory of licensing framework in Queensland with cross-jurisdictional input.

Queensland was chosen as the subject of this study due to the representative

characteristic of regulatory model draws to the overall Australian regulatory licensing bracket. Queensland was an early starter on regulatory reform in the security industry, yet the nature of the reform process has conventionally been characterised by scandal-driven reforms concerning certain sectors that come under increasing scrutiny(Sarre & Prenzler, 2011). Nevertheless, since 2000s, Queensland has undergone some significant advances towards a model form of regulation, coinciding with the federal-led mutual recognition directive. The focus of review in the present study is on providing a window into the pace and direction of regulatory changes taking place within and beyond the developments taking place in Queensland, with relevant comparisons drawn to the Australian reform experience.

The overall research questions have been framed as follows: how has the regulatory framework governing the security industry licensing progressed since the pre-reform era?; why did these changes occur and what types of licensing arrangements have evolved to-date?; and how can the overall system be improved? The work was carried out by doing documentary research and adapting the best practice model developed by Button(2012) and Prenzler and Sarre(2014) to evaluate the effectiveness and efficiency of intervention framework. Their criteria, modelled under the 'width-depth' and 'smart regulation' principle, are utilised to assess the consistency and thoroughness of the three core pillars of the licensing arrangements: probity checks; competencies assessment; and proactive compliance monitoring and enforcement. This study serves as a follow-up to the regional level survey of Queensland private security regulatory regime conducted by Prenzler and Hayes(1999) by firstly, bringing together and assembling the main outcome of the first and second wave of reform in Queensland since the '90s; and secondly, by mapping and addressing the current status of reform and outstanding issues that remain pending.

This article begins by describing the methodology used for this study; defining the definition of the private security industry; and then assessing the regulatory theories and best-practice models to be complemented for the gap analysis. Based on these theoretical foundations on various forms of regulatory approaches and strategies, the findings section moves on to explore Queensland's experience reforming licensing

regime. The study initially assesses the nature of industry control by outlining traditional mode of industry governance. Upon identifying the sources of shortcoming in the mandated minimum measures, the emphasis will shift to surveying the promises and pitfalls of the state's foremost industry-specific legislation of 1993. The post-1993 progress made to restructuring the regulatory system are then taken into account by drawing attention to the recent reform updates that culminated in the Security Providers Act of 2007. The latter half of the article reflects on the outcome of the change process by inventorying the system of regulation. The article concludes by canvassing recommendations that could be pursued to enhance sustainable development of the industry.

1. Method

A research synthesis method was utilised to assemble and integrate qualitative materials on turning points and regulatory changes. The main sources included the parliamentary debates; the statutory regulations with their supplementary texts; and relevant reports containing gap analysis. Information derived from these sources range from in-depth descriptions of the reform drivers to legal loopholes, funding gaps and other practical issues. These primary sources are integrated with other qualitative materials, notably policy documents, discussion papers and media reports. These sources provide a reference point for surveying the following circumstantial evidence: the different drivers of reform; grounds for omission of certain clauses; and controversial elements of the reform provisions in terms of publicity. Access to the archives were assisted by available electronic databases, including Hansard and the *Factiva* research tool that catalogues current and retrospective documents relevant to private security. However, in some cases, secondary studies were relied upon because the direct references were unpublished or outdated, and required summation by authors.

2. The security industry profile

The duties of the police and regulations governing them are different to those affecting private security personnel. The police provide equal public services. The private security industry consists of diverse divisions and is fragmented into distinct groups that cater to a wide base of commercial clientele. That said, regulators have not been 'keen to comprehensively regulate the private security industry'(The Centre for International Economics, 2007: 7). The dimension of operations include for example: guarding (contract or in-house basis); guarding with a dog; guarding with a firearm; close protection; cash-in-transit; crowd control; private investigations; locksmith; security systems installation; monitoring centre operations; consulting; security shredding; and security equipment manufacturing and distribution, to mention the most(Sarre & Prenzler, 2011: 12). However, both the definition of the industry and the models of regulatory systems vary from one country to another, depending on which of these sectors is targeted and scrutinised under the legal framework(Button, 2012).

The industry profile can be significantly expanded, for instance, as in the study by Cunningham *et al.*(1990: 186) entitled 'Hallcrest Report II' which, two-decades earlier, had already developed a classification of twenty-six existing service sectors, including 'polygraph, penetration testing, eavesdropping detection, and witness protection'. In terms of market concentration and public policy relevance, however, there are certain types of activities that are more commonly regulated than others. To a great extent, 'manned guarding(static and patrol guarding, armed guarding)' and 'private investigation' services are usually at the forefront of regulatory constraint. Other emerging sectors, such as 'technical security consulting and systems installation' are less often noticed while the latest market sectors such as 'security shredding and control room operations' are seldom brought to attention(Button & George, 2006: 567; Sarre & Prenzler, 2011: 12). The diversification and specialisation in service scale periodically generate gaps within the legislative scope, which the existing licence categories may not cover.

II. Theoretical Background: Regulatory Theories and Approaches

Entering the post-World War II era through the 1960s internationally, private security had remained largely unaffected by statutory intervention specific to the sector. Legislation in some countries dates back to the mid-1800s; however, the industry was kept well below the regulatory radar until the 1960s(Moore, 1990: Prenzler & Sarre, 2014). During the pre-reform era, there had been little in the way of government sponsored initiatives other than embracing a minimalist approach to statutory interpretation, such as registration requirement, practice certificate or work permit(Button & George, 2006: 564). As commercial security continued to expand, legislative attention began to focus on the industry in the 1970s. The main driving force is evidenced by public perceptions of the industry, characterised by typecasts such as the 'watchman'(low competency) and the 'hired gun'(paid enforcer) (Livingstone & Hart, 2003: 160). George and Button(1997: 188) identified three common criticisms shared by most countries during this era: first, concerns over the character and conduct of certain individuals working in the industry; second, general questions about training standards; and third, discomfort over the potential for abuse of an agent's power. Through time, these potent risk factors have been magnified by a fourth factor: 'the massive growth in for-profit security'(Prenzler & Sarre, 2014: 860). The cynicism levelled against the security sector was that many of the private actors were of dubious character with poor skills, and that, left unchecked, this could add to lawlessness and insecurity rather than providing relief from it(George & Button, 1997: 190).

The result was that by the 1970s, many countries began working on a licensing system as a way to instill professionalism into the industry. This was commonly done by introducing some core intervention methods, such as establishing conditions for mandated entry-level competencies('via prescribed training') and automatic disqualification criteria('via probity check')(Prenzler & Sarre, 2008: 264). As Button and George(2006) described, the purpose of these intervention measures were to ensure that

those with certain convictions or a lack of the necessary training are prevented from gaining a licence/registration, and therefore cannot practise in the industry. The efforts to develop standards, however, were by no means uniform across countries in terms of comprehensiveness.

Theoretically, licensing should be 'comprehensive, covering all relevant categories'; 'compulsory, in terms of ongoing competency assessment'; and 'continuous, in assuring compliance monitoring'(Prenzler & Sarre, 2008: 274). In terms of 'width and depth', good regulation should: i) 'serve to govern the conduct of wider occupational groups across all licensable sectors, covering both in-house and contract sectors'; ii) 'establish consistent standards for background checks for employees and firms that include managers, owners and partners of security organisations'; iii) 'implement competency assurance requirements either by certification schemes or assessment programs'; and iv) 'promote greater accountability in the regulatory regime through prescribing some form of deterrent sanction for failing to comply with licence conditions, such as fines, licence suspensions and cancellations'(Button, 2012: 207-209). The premise of regulation here is that governments are responsible for ensuring minimum acceptable standards of competency and integrity to safeguard the public against vulnerabilities to malpractice and misconduct because of the position of trust in which security employees are placed(Button & George, 2006: 564).

1. Types of misconduct in security work and common understanding on best practices

There are common forms of industry risk profile, similar to that of public policing, which derives from 'opportunities intrinsic to security work'(Prenzler & Sarre, 2008: 266). A recent review by Prenzler and Sarre(2014: 864) makes clear that while the nature and extent of risks may vary, certain fixed patterns of unprofessional conduct 'invariably tend to be the norm, rather than the exception, given the common nature of duties and tasks performed'. Parallel with this, Prenzler and Sarre(2014) developed a set of criteria that tend to be the by-product of inadequate regulation. Their model is based

〈Table 1〉 Common types of misconduct in security work

Type	Key Features
Fraud	Falsification of security checks / inspection records
Incompetence & Poor standards	Wilful negligence or limited abilities / qualifications
Under-award payments	Offering cut-price bribes through bypassing taxation / hiring unlicensed staff
Corrupt practices	Soliciting bribes in exchange for preferential police treatment against competitors
Information corruption	Private information trading
Violence	Provoking assaults (including threat of violence) on patrons
False arrest & Detention	Unlawful use of citizen's power of arrest
Trespass & Invasions of privacy	Vigorous pat-down searches / misuse of CCTV footage other than for security purposes
Discrimination & Harassment	Engaging in racist and discriminatory forms of conduct
Insider crime	Taking advantage of key insider knowledge / specialist skills / access control
Misuse of weapons	Injuries and deaths occurring to bystanders, offenders or nearby officers

출처: Prenzler & Sarre, 2014: 864.

on eleven categories.

While these adverse events emerged across nations, recent thinking has emerged to proactively remedy the coverage lapses in the different licensing regimes. These encompass two core sets of regulatory concepts that provide a foundation for advancing better regulatory practices: the three 'Cs' criteria set by Button(2012) that concerns establishing the equivalent level of intervention levels in the industry, that is, comprehensive licensing, compulsory training, and continuous monitoring; and a 'smart' regulatory approach proposed by Prenzler and Sarre(2014) that endorses 'evaluative, evidence-based' care. Prenzler and Sarre(2014: 872) note, in its idealised form, the overall system should be optimised, in terms of the extent to which the width-depth criteria are consistently covered. Their model is based on the following considerations:

- 'Strategic add-on options to facilitate compliance should be evaluated regularly and explored wherever possible'.
- 'Regulators should be innovative in applying a range of strategies available to them and maximise the full benefits of existing strategies'.
- 'Regulatory enforcement and inspections should be research-based, and seek to utilise a mix of compliance promotional strategies'.
- 'Regulatory authority should ensure clarity of rules and a process for inspections by clearly articulating obligations of enforcement officers and of businesses'.
- 'Regulatory authority should take a graduated approach to sanctioning with clear guidelines and a long-term road map'.
- 'Enforcement should be responsive to the degree of compliance breaches. An intervention based on a penal, accusatory style of enforcement should be discouraged'.
- 'Enforcement systems should induce compliance and support good relationship. Voluntary compliance promotion efforts should be rewarded and publicised'.

(Prenzler & Sarre, 2014: 859, 872)

In Australia, as Prenzler and Sarre(2008: 30-31) note, the need for the smart regulatory approach arose due to the recurrent problems outlined in Table 1, and the associated exposure of regulatory inadequacies in addressing the occurrences. Throughout the findings section, the above charted model template will serve as the key to evaluate the merits of the mandated minimum licensing standards and practices in Queensland. Specific cases will be elaborated as to why implementing a comprehensive scheme, even a basic arrangement, can be vital to the success of any regulatory regime.

III. The First Wave of Reform

The introduction of the security industry-specific regulation in Queensland was

initially driven by the need to patch ethics and conduct problems in certain targeted occupational groups, mainly crowd control, private investigation and general guarding. In Queensland, the private-security relevant legislation traces its roots to the *Invasion of Privacy Act* 1971(Qld). The statutory instrument contained registration requirements apply to guarding(i.e. guard/ watchman) and investigation(i.e. private inquiry agent) categories, but did not set the standards of business conduct for all other activities; the law primarily sought to protect privacy(i.e. illegal bugging) or deal with trespass(Prenzler & Hayes, 1999). Other fields outside the regulatory realm were partially covered by 'general civil, criminal and company laws' or 'patchy special legislation' intended for certain geographic areas or targeted sectors only (Department of Fair Trading, 2001: 6). The consequence of this neglect was the lack of a statutory agreement as to what would constitute a compulsory minimum standard that the industry should be subject to. Until 1993, three fundamental issues remain overlooked: what minimum level of probity should apply to those operating within the industry?; how should training of the industry be carried out and evaluated?; and, is there a standardised approach to assuring compliance. Calls for further reforms culminated in these shortcomings. The catalyst behind this attentional shift was a growing alarm over the incidence of violence involving venue security personnel.

1. Pro-licensing movement

Across the mid-1980s and into the early-1990s, there was rising public concern over a wave of allegations of assault in and around licensed premises that serve alcohol, particularly in the Gold Coast and the capital city Brisbane that provided entertainment for the larger region. By the late-1980s, in the Gold Coast alone, it was alleged that at least ten people had been taken to hospital each week due to crowd controller inflicted injuries(Legislative Assembly, December 2, 1993: 6419). 'Bouncers' – now commonly referred to as 'crowd controllers' – remained immune from licensing intervention, including the activities of private detectives and guards. Serious talks therefore proceeded in a bid to 'clean-up' the undesirable elements by requiring the

security staff to satisfy a character check, complete a specified hours of training and hold a state-issued licence(Legislative Assembly, December 2, 1993: 6413). By the December 1993, the *Security Providers Act 1993*(Qld) was proclaimed, introducing for the first time a streamlined licensing approach to managing a range of groups under the umbrella term, 'security providers': crowd controllers, private investigators, security officers, and security firm owners and partners who engage in the business of supplying contract security services to clienteles.

2. Coverage loopholes

Given that the foremost focus of the new legislation was on crowd controllers, the new Act made it mandatory for all staff to be licensed, regardless of whether they are employed on an in-house basis(i.e. employed by the premises they protect) or by contract firms(i.e. working for a firm which protects many locations)(s 5). For licensing purposes, however, subsection(b), under the heading, 'Who is a crowd controller', established that:

> … a crowd controller is defined as a person who for reward … is at a public place 'principally' for the purpose of maintaining order.

The ambiguity in the legal language was the use of the words 'principally', which allowed the industry to get around the compulsory licensing; that is, the streamlined '10 year rule' applying for those who had been convicted, in the preceding ten years, of a disqualifying offences in the areas of drugs, dishonesty, violence and weapons; and the training requirements(i.e. 24 hour for crowd controllers(three days), 35 for private investigators, 38 for security officers)(Prenzler & Hayes, 1999: 5). An ongoing argument relied on whether an employee was a crowd controller and whether that was one's principal function. The rationale for the inclusion of the word 'principally' can be attributed to two causes: the potential of generating a whole suite of sub-licence categories, and government's opposition to onerous regulation. The Official Solicitor of

Consumer Affairs addressed the following practical problems associated with exercising a more specific and strict terminology:

> If the wording is tightened any further, so as to require any person who maintains order in a public place to be licensed, this would require bar staff, car park attendants, theatre ushers and others to be licensed, which would be unreasonable and unworkable.(Prenzler *et al.*, 1998: 26)

When the Act was introduced, drafters felt that a degree of independence should be reserved for in-house hirees, given the nature of the job(i.e. hired and trained in skills specific to the needs of a particular company) and, above all, direct employer liability involved with employees' work performance (Legislative Assembly, December 2, 1993: 6412).

Although precise figures are unavailable, the number of in-house security staff in Queensland had conservatively been estimated at 30% of the industry (Prenzler *et al.*, 1998: 24). This led to criticisms that the reform measure was largely toothless, in contrast to the Minister's claim in stating, '…under this legislation, we have comprehensive coverage of the security industry' (Legislative Assembly, December 2, 1993: 6427). In its defence, the government maintained that despite the issues, accountability measures were covered by existing law and market mechanisms which unhappy consumers could resort to (Department of Fair Trading, 2002: 29). Then again, plenty of question marks lingered over the Act's genuine capacity to root out misconduct, unless uniform standards were invited. As Prenzler and Sarre(1998: 4) highlight, successful prosecutions of security staff can be distressing, given the '…clear and convincing evidence standard of proof' required in criminal proceedings. As to the civil litigation, there is little extra to offer apart from 'individual monetary compensation', which does nothing to challenge malpractice in any consistent way(Prenzler & Sarre, 1998: 4). The conventional remedial measures were highly unreliable and certainly far from systematic.

3. Training

What is often contentious is whether the licence holder is not only accountable but capable. Beginning December 1993, Queensland instituted state-mandated training requirements(via 3-5 days), yet the problem remained; no commonly agreed-upon definition of competency existed at the time(Zalewski, 1995: 4). As nationally endorsed industry specific competencies were still unavailable, relatively little was known about the specific needs of the industry. This major gap in the model curriculum content was the direct cause of the subsequent two-year delay in promulgating regulation(Prenzler *et al*., 1998).

When the Security Providers Regulations took effect in February 1995 with updated details on the training guideline(i.e. core curriculum at entry level), criticisms soon emerged over the meagre approach to training; the courses did not recognise clear vocational units of competency(Zalewski, 1995: 2). Prenzler *et al*'s(1998: 26) interview of in-service operatives found that the curriculum, ranging from 24 to 38 hours, was seen 'sketchy' to attain 'knowledge of law, awareness of statutory obligations, and hands-on understanding of best-practices'. Zalewski(1995: 2), a training techniques expert, opined that the whole reason the Act came about was due to low professional standards, and that courses must be accredited to show trainees what constitutes misconduct and how to avoid it. Of the 1,714 security service businesses in Queensland at the end of 1999, there were 26 businesses specialising in cash-in-transit, and far more concern was levelled at the inadequate firearms training standards pursuant to the *Weapons Act 1990*(Qld), amid inadequate facilities and shortcomings in hands-on understanding of industry-specific vocational competencies on the part of weapons instructors(Prenzler *et al*., 1998: 26).

4. Implications of the first wave of reform

While the *Security Providers Act 1993*(Qld) was crucial in setting the framework for licensing regime, it can be argued that the Act was still minimally effective due to several

shortcomings. First, given that the major focus of the Act was on crowd controllers, the Act omitted large segments of the industry. Also, while the Act covered guarding and investigation fields, licensing requirements did not extend to in-house personnel. Second, the licensing reform in the 1990s was mainly directed towards pre-entry standards with not much emphasis placed upon the post-monitoring and professional development. Third, training and assessment standards set were meagre, other than nominal hours specified. A major turning point came in the 2000s when the Council of Australian Governments(COAG)–the peak Australian ministerial body–intervened industry reform with broad national security considerations. Given the Queensland's piecemeal stance, the arrival of federal intervention radically altered the nature of the reform process.

IV. The Second Wave of Reform

Despite the important steps taken to transform the regulatory regime in Queensland, one overlooked aspect that remained during the 1990s was a little attention paid to proactive monitoring and support. As Prenzler and Sarre (2012: 42) stress, 'there was little evidence about what was working and what aspects of the system needed improvement'. This was at odds with the 'evaluative, information-rich', smart regulation model(Prenzler & Sarre, 2014: 872). In practice, a planned approach to audit compliance was limited and complaints-driven(Department of Fair Trading, 2002: 23). These unresolved issues were met with recurring and emerging challenges.

The security industry's negative publicity associated with crowd controllers continued on from the 1990s into the 2000s following high-profile death of cricket legend David Hookes in Victoria that drew intense national publicity. Exchanges between Queensland Fair Trading Minister Margaret Keech and Capalaba MP Michael Choi during a parliamentary hearing provide insight into the event's implication in Queensland:

Choi: The report states that the Fair Trading will commence a review of the

Security Providers Act 1993. What has prompted such a review?

Keech: The Act has not been subject to a major assessment since its enactment. In more recent times, the unfortunate death of cricketer Hookes in Victoria has focused attention on regulation of the industry throughout Australia and this

〈Table 2〉 Chains of adverse events (1999 – 2004)

	Jurisdiction	Case	Issue
1999	Brisbane	Brinks armed robbery	An 'inside job' involving an armoured car guard
2003	New South Wales	Firearm theft	Numerous guns robbed and stolen from security staff and from the premises of firms, which boomeranged on gun-control adequacy
	Adelaide	Infiltration of nightclub security by organised crime	Escalating gang violence linked to turf war. Police indicated that eighty per cent of licensed premises in Adelaide's central business district use firms linked to bikie gangs
2004	Melbourne	David Hookes death	Australian cricket legend died following an altercation with a crowd controller who was already facing assault charges over a previous incident
	Sydney	Karen Brown case	Cash-in-transit guard shot dead robber who had severely assaulted the guard. The guard was lone, plain-clothed, lacked armoured vehicle and was carrying amount well above the set limit
	Perth	Prisoner escape	Nine prisoners, all in 'dangerous' category, escaped court custody ran via contract security firm
	New South Wales	Escalation of assaults by crowd controller	Violence involving security staff at licensed premises, including blows and kicks in the head region often requiring surgery
	Sydney Canberra Tasmania	Chubb case	Australia's largest security firm, Chubb, pleaded guilty in the Federal Court to falsifying its ability necessary to fulfill conditions in its mobile patrol contracts
2005	Melbourne Sydney	Airport security	Discovery of the drug-smuggling operation involving baggage handlers at the airport
2007	Sydney	Sydney transit	Criminals easily overpowered the railway guards in a series of violent robberies

출처: Prenzler & Sarre, 2008: 25-30.

review is timely.(Legislative Assembly, July 22, 2004: 472-473)

In summary, Hookes died from a concussion outside a hotel following a physical altercation with a crowd controller. The matter triggered scrutiny revolved around whether the tragedy could have been avoided; the staff was already facing assault charges, yet clerical error had failed to alert authorities (Petrie, 2004: 2). The inquiry into the death of Hookes aroused much negative media scrutiny and speculation over whether the piecemeal reform practices over the past can keep pace with wave of fresh adverse events resurfacing in Australia. Compiled from Prenzler and Sarre(2008), Table 2 provides links to a series of adverse events that have drawn headlines between 1999 and 2004, and attracted regulators' scrutiny in Australia.

In light of the challenges charted above, the year 2005 saw the major federal intervention seeking to develop a model licensing regime, significantly affecting the tone and direction of reforms taking place in Queensland. The Council of Australian Governments(COAG) directed attention to the growth of the industry, outnumbering police by a three-to-one ratio, and the nation's dependency on these services. Security providers serve the majority of business precincts, key installations, and mass gatherings and events–all known to be terrorist targets(The Centre for International Economics, 2007). This also means that security providers may be the first to detect and respond to adverse events. It was a strategic imperative, therefore, for the Commonwealth to intervene in the industry for core national interests, and simultaneously, in Queensland, what ultimately became a legislative consensus was the need for a 'complete overhaul', that is, a new piece of legislation to repeal and supersede the 1993 Act(Legislative Assembly, November 23, 2005: 4193). The review process for the new legislative framework was closed in May 2006 with the Public Benefit Test report and draft Bill made available in October 2006 that complemented the COAG guidance(Department of Justice, 2008: 4). This led to the introduction of the *Security Providers Amendment Act 2007*(Qld) in November 2006, which was passed by the Legislative Assembly in March 2007 and became law in July 2008.

The culmination of these developments is mirrored through five main pillars of

licensing changes. Key reforms were: licensing of previously unregulated sectors(security equipment installers, electronic surveillance operators, dog handlers, in-house security guards, security advisors); tightening of identification checks(100 point check); mandating compulsory consent to undergo national criminal history checks(check for criminal, court and police records); increasing the frequency of monitoring(daily incident log check); and requiring nationally accredited training(Department of Justice, 2008: 4, 14). The follow-up sections below survey these criteria. Where applicable, cross reference is made to the COAG directive and Queensland's interpretation of these arrangements.

1. Fit and proper criteria

Under the COAG policy, all jurisdictions are required to establish a standard for a proof of identity prior to processing applications(by way of collecting combination of personal identity documents that add up to 100 points), and have provisions to automatically suspend a licence for breaches of licensing conditions(even while charges or convictions are pending)(Sarre & Prenzler, 2011: 45). In Queensland, in parallel with COAG endorsement, progress was achieved in three ways: 100 point check, national criminal history and confidential intelligence checks, and mandatory fingerprinting(Office of Fair Trading, 2007: 11). The 100 point scheme was initially developed to deal with identity fraud vulnerabilities associated with financial institutions(e.g. tax evasion, money laundering, welfare fraud) before it was widely adopted for purposes other than tracing illicit money flows since 2008, such as gaining a driver's licence and attaining registration as a licensed practitioner(Department of Justice, 2008: 12). Under the new requirement, in Queensland, the birth certificate, a primary document, accounts for 70 points of identification, with extra points being accessed from other supplementary sources(e.g. medicare, land title records)(Office of Fair Trading, 2007: 12).

Beginning 2011, the identification check was complemented further by fingerprint clearance requirements made under the *Security Providers Amendment Regulation 2011*(Qld), in line with the COAG policy. The fingerprint-based background check is intended to

serve as a means for confirming identification(i.e. matching fingerprints with the 100 points of identity provided by the applicant) and conducting background checks, as well as solving open cases. Presently, fingerprints are taken at one of the fourteen designated Queensland Police Stations(Office of Fair Trading, 2014). These biometric records are stored on the nationwide database(i.e. National Automated Fingerprint Identification System) and disseminated by the Commonwealth agency for monitoring and investigative purposes. However, one area that has not been confirmed is the fingerprinting of 'close associates' when a security personnel's identity is in question. This had already been in force in Victoria since July 2005 under the *Private Security Act 2004*(s 22 & 79). South Australia took this one stage further by passing the *Serious and Organised Crime(Control) Act 2008* that allowed for imposing up to 5 years' imprisonment for 'associating'(six occasions over a 12-month period) with a member of a controlled organisation other than under reasonable circumstances(those occurring in the course of a lawful occupation or family gathering)(s 35). Although the Queensland Parliament watered-down this initiative(as no taking of fingerprints of close associates was initiated), close associates remain subject to criminal profiling in the case of incidents(i.e. fingerprinting of relevant person)(*Security Providers Amendment Regulation 2011*(Qld), s 27). Also, discretionary power is vested in the licensing authority to deny or suspend licences on discretionary grounds(via confidential intelligence)(Office of Fair Trading, 2013a).

2. National training package

Following the COAG directive, all jurisdictions, including Queensland, now operate under common competency standards. The nationally endorsed CPP07 training package is the 'key'(Sarre & Prenzler, 2011: 21). The national training package brought changes in two major ways on a national scale. First, the training package was realigned with 112 units of competency focused on needs of a particular sector or jurisdiction. Examples of updated modules include: 'apply retail security procedures', 'apply health care security procedures' or 'apply x-ray image interpretation procedures'(Property Services Industry Skills Council, 2014: 33, 60). Second, there was a greater focus on

the biometric aspects of vocational training. These include techniques in radio frequency ID and RFID chip technology for controlling and monitoring access. The requirement was in recognition that these types of security solutions are in common use, thus necessitating familiarisation and up-skilling(Department of Education, 2011: 4995). In summary, the CPP07 National training package was designed to serve two purposes: expansion of new compulsory core units and extension of elective pools. This affords open-market-type flexibility that provides greater job training opportunities for career pathways. These changes increased training times on average from 3-6 days to 10-12 days.

3. Effect of CPP07 in Queensland

In Queensland, the CPP07 package serves training purposes in the manpower areas of guarding, bodyguarding, private investigation, cash-in-transit, crowd control, control room operation and dog patrol(Office of Fair Trading, 2014). At present, the national qualifications framework is in place for accredited curriculum, approved trainers, and assessment standards(Office of Fair Trading, 2013b). Nonetheless, in Queensland, these standards have not recognised groups in the Class 2 technical security categories; that is, security equipment installers and security advisers(Office of Fair Trading, 2014). There is no requirement to undergo accredited training, including Australian Communications and Media Authority(ACMA) cabling registration, which is the Australia-wide standard. There is also no requirement to issue a Certificate of Compliance upon completion of the job. The end result, therefore, is only a probity clearance. In December 2012, the CPP07 V8.0 Queensland transition guides addressed the training issue of technical service categories. Reform in this area however has not been confirmed since and remains pending.

V. Critique and Conclusion

This article has overviewed the developmental milestones of mandated licensing standards in Queensland with a cross-jurisdictional review. The transitional models of regulatory systems were reviewed under the three 'Cs' criteria: comprehensive licensing, compulsory training, and continuous monitoring. In regard to the comprehensive licensing of security tasks, Queensland currently regulates activities of guarding(armed guarding, guarding with a dogs, body guarding); crowd control; cash-in-transit; investigation; security systems installation; monitoring centre operations; and consulting, consistent with the COAG directive. Nonetheless, it should be noted that COAG's focus was particularly directed at the manned-guarding side of the industry, given the core counter-terrorism interests. In terms of compulsory training, Queensland regulation went into adequate detail about the manpower side of the industry. As noted, a crowd controller would have to undergo a bodyguard training program, as would a security officer, private investigator and so on. These requirements do not extend to the Class II categories. This simply means that one can have honest but incompetent installers or advisers. In New South Wales, since 2007, the Class II licence is recognised within four licence categories, including security sellers, locksmiths, and barrier and electronic equipment specialists. This more sophisticated aspect of private security is less apparent in Queensland.

At current incident log checks are a widely employed means of monitoring the ongoing appropriateness of the licence holder, with the availability of a centralised vetting repository(Office of Fair Trading, 2014). Disqualifying offences relate to any weapons offence(e.g. dangerous conduct with weapons, failure to adequately store weapons), any drug offence(e.g. possessing, producing, supplying drugs) or any crime set out in Schedule 1 of the *Criminal Code Act 1899*(Qld)(e.g. assault, dangerous driving, fraud, manslaughter, rape, receiving stolen property) occurred within the last 10 years that are punishable by imprisonment of 1 year or more. These criminal history checks extend to New Zealand, for both Class I and II licensees(Office of Fair Trading, 2014).

This gives a positive sign about developments taking place. However, there is a lack of systematic reviews and detailed reporting on impact of these changes. The latest Public Benefit Test Report on security industry licensing, for instance, did not provide details as to rejection, refusal, suspension or disqualification updates following changes in major regulatory requirements, such as fingerprinting(Department of Justice, 2013).

Despite the important steps taken to transform the regulatory regime in Queensland, two lingering issues that remain pending are introduction of psychological evaluation and drug testing for 'cost reasons'(i.e. labour intensive and expensive)(Sarre & Prenzler, 2011: 45). Since 2007, the preferred proactive regulatory approach in Queensland has been targeted testing(i.e. intelligence led) or real-time incident log checking, however, this practice usually apply to crowd controllers and contract at the licensed premises in and around popular celebrating and drinking hot spots, and tourist attractions. Concurrently, there appears to be a case for Queensland policymakers to think outside the box (i.e. COAG/cross-jurisdictional template) in developing add-on options(e.g. cost-effective alternatives) best suited to the Queensland setting. To promote greater consistency and structure in the licensing regime, the following 'Smart Regulation' principle may provide a foundation for advancing better regulatory practices that needs to be more explicitly applied to the security industry in Queensland.

- 'Innovative add-on options to facilitate compliance should be evaluated regularly. The existing set of regulatory strategies cannot uniformly address jurisdictional specific problems and issues'.
- 'Inspectorates' actions and their effectiveness and efficiency should be evaluated against a set of well-defined indicators, such as the merits of different enforcement tools for each given risk and the level of resources dedicated to enforcement activities'.
- 'Regulators should seek to utilise a mix of compliance promotional programs. Feedback from industry insiders and experts, and case-study analyses can be simulated to draw the optimal level of intervention'.
- 'Enforcement action should avoid generating socially-costly consequences such as creating loss of supply of services and unemployment through major

sanctions(punishment by removal, shut down)'.

(Prenzler & Sarre, 2014: 859, 872)

This study of the evolvement of regulatory systems and relevant development of qualifications frameworks in Queensland has shown the need for further refinements to ensure adequate depth and breadth of regulation in these areas. At the same time, the study provides strong lessons for other jurisdictions such as South Korea on the need to avoid cycles of reactive reform by implementing the desired level of mandatory licensing standards that include National Qualifications Framework, accredited curriculum, approved trainers, recognised assessment standards and certification schemes. These competency standards are considered pertinent to strengthening private capacity and facilitating private-public partnership engagements. Such a 'comprehensive' model of regulation and practice is less apparent in South Korea, as showcased by the lack of government-sponsored certification schemes specific to private security(Cho, 2014). That said, there would appear to be a need for greater opportunities for professional qualifications in diverse areas. The availability of non state-sponsored certificate is quite limited(e.g. industrial security expert, private investigation administrator), and from a reading of the available sources, it would appear the schemes do not appear to have provided successful applicants with greater employment benefits or career path opportunities in the industry(Jung, 2007; Lee, 20007). Further, private investigation services remain still prohibited, rather than regulated in South Korea(Lee, 2008).

Internationally, private investigation service is the core sector usually at the forefront of regulatory constraint, encompassing private inquiry agents, debt recovery agents, commercial agents, and process servers. However, in South Korea, the government's lukewarm stance on stimulating the investigation services sector, means that there are inadequate guarantees of baseline competence and integrity(Lee, 2012). In countries such as North America, it is noteworthy that many professional industry organisations have taken the lead in promoting a professional standard. The American Society for Industrial Security (ASIS) is one such association formed to contribute to a higher level of

competency, and assist states in developing qualifications criteria linked to specialities. Examples include Certified Protection Professional(CPP), Physical Security Professional(PSP), and Professional Certified Investigator(PCI). It can be argued that South Korean regulators should actively explore programs for in-service training linked to career path development; that is, implement competency assurance requirements either by certification schemes in consultation with industry associations or through staged national licensing qualification framework, similar to the arrangement that exist in Australia. The Australian Qualification Framework(AQF), for instance, forms a tree-like hierarchy, comprising Certificates I-IV(Levels 1-4), the Diploma(Level 5) and Advanced Diploma(Level 6), further to the Vocational Graduate Certificate and Vocational Graduate Diploma for continuing professional development purposes. It can be suggested that such a streamlined qualifications framework would present practical guidance to South Korean policymakers to explore the design and implementation pathways. To achieve this, a standing research unit, industry advisory board, and regular consultation with stakeholders are all crucial to this process to systemise an approach to accreditation requirements; and best utilise and mobilise the practical knowledge and expertise of the industry.

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【국문요약】

호주 민간시큐리티 산업의 비판적 고찰 : 퀸즐랜드주를 중심으로

김 대 운·정 육 상

본 논문은 관광이 기간산업인 호주 퀸즐랜드주를 대상으로 민간시큐리티 산업의 선진화 과정과 제도적 개선점 등에 대해 검토하였다. 90년대 중반을 기점으로 단계적으로 진행된 제1,2차 개혁과정의 검토를 통해 제도운영상의 종합적인 성과 및 개선사항을 점검하였으며, 사례분석을 통해 도출한 시사점은 Button(2012)과 Prenzler와 Sarre (2014)가 제시한 표준모델(Best Practice Model)에 대입하여 개선방안을 논의하였는데, 주요 내용은 다음과 같다.

첫째, 퀸즐랜드주는 연방정부의 시큐리티 사업자 규제 권고안을 충실히 이행하고 있으나 현장에서의 실시간 음주·약물 측정, 정신장애정도에 대한 감정, 경비 사업자 측근(close associates)에 대한 프로파일링 등과 같은 선제적 규제기법은 케이스-바이-케이스로 운용중이어서 보다 적극적인 쇄신이 요구된다. 둘째, 퀸즐랜드주 시큐리티 자문업·기계경비업자들의 경우 교육·훈련 과정 이수의 법적의무가 없어 자율준수로 운영되는 현행 커리큘럼의 의무화 방안 역시 재고되어야 한다. 마지막으로, 퀸즐랜드주 시큐리티사업자에 대한 현장 관리감독은 관광특구에 크게 집중되어 있어 관리당국인 공정거래청(Fair Trading)에서 그 범위를 확대하는 등 능동적인 개입이 필요하다고 판단된다.

호주 시큐리티서비스 산업이 한국에 주는 의미 있는 시사점으로는 첫째, 교육훈련의 표준화·공인화와 같은 지속적인 제도정비 개선노력 둘째, 이 같은 시큐리티산업의 전략적 육성과 경쟁력 향상 도모를 통한 민·경 공조체계의 실효성 강화 등을 대표적으로 꼽을 수 있다. 국내에서는 사경비자격제도에 해당하는 산업보안관리사, 공인탐정사 등의 전문자격증이 정부산하 협회 혹은 민간단체 등에서 발급되는 관계로 일관성·신뢰성에 대한 문제가 제기되어 왔고 공신력 부여 방안에 대한 논의 또한 지속되어 온 것이 사실이다. 따라서 호주의 모범선행사례를 참조하여 자격제도 관리·운영의 노하우 활용방안에 대한 체계적 접근을 모색해 볼 필요가 있다고 사료된다.

주제어 : 퀸즐랜드, 시큐리티 산업, 규제개혁, 산업육성, 직능전문화