

Hon Aupito William Sio
Associate Minister of Justice

Proactive release of documents relating to Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations and other legislative instruments

Date of issue: 8 May 2019

The following documents have been proactively released in accordance with Cabinet Office Circular CO (18) 4.

No.	Document	Comments
1.	Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations and other legislative instruments <i>Cabinet Paper</i> Office of the Associate Minister of Justice	Released in full. <i>Note that the copies of the regulations and commencement orders provided to Ministers with this paper have been withheld in accordance with section 61 of the Legislation Act 2012 and section 9(2)(h) of the Official Information Act 1982 to maintain legal professional privilege.</i> <i>The legislative instruments are publicly available from www.legislation.govt.nz.</i>
2.	Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations and other legislative instruments <i>Cabinet Minute</i> Cabinet Office Meeting date: 19 March 2019	Released in full.

In Confidence

Office of the Associate Minister of Justice
Chair, Cabinet Legislation Committee

Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations and other legislative instruments

Proposal

1. This paper seeks Cabinet's agreement to authorise the submission to the Executive Council of the:
 - 1.1 Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019;
 - 1.2 Tribunals Powers and Procedures Legislation Act Commencement Order 2019;
 - 1.3 Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019;
 - 1.4 Courts Security Regulations 2019.
2. The Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019 and the Tribunals Powers and Procedures Legislation Act Commencement Order 2019 will come into effect on 1 May 2019.
3. A waiver of the 28-day rule is sought to enable the Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019 and Courts Security Regulations 2019 to come into effect on 8 April 2019.

Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019

4. Certain types of private security or investigation work in New Zealand require a licence or certificate under the Private Security Personnel and Private Investigators Act 2010 (the PSPPI Act). This is to ensure that people carrying out that type of work are suitably qualified to do so, and do not behave in ways that are contrary to the public interest.
5. The PSPPI Act authorises the making of regulations to prescribe the study or training to be completed by applicants for licences and certificates (section 114(1)(h)(i)).
6. The Private Security Personnel and Private Investigators (Minimum Training) Regulations 2013 (the Training Regulations) set out the minimum training requirements for certain classes of licences and certificates of approval. The PSPPI Act allows the Training Regulations to prescribe different requirements within a class of private security business or class of responsible employees (section 114(2)(a)(ii)).

7. The Training Regulations currently set out three New Zealand Qualifications Authority unit standards as the minimum training requirement for applicants of certain classes of licences and certificates of approval.
8. The Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019 (Amendment Regulations) amend the Training Regulations to:
 - exclude office-based property guards and property guard employees from the minimum training requirements, and
 - reflect recent changes to the New Zealand Qualifications Framework qualifications in security training.

Excluding office-based property guards and property guard employees from the minimum training requirements

9. The Training Regulations aim to equip security personnel with skills to manage physical conflict they may encounter as part of their work. The training requirements set out in Regulation 4(1) currently apply to crowd controllers, crowd controller employees, personal guards, personal guard employees, property guards and property guard employees.
10. The PSPPI Act definitions of 'property guard' and 'property guard employee' capture security personnel who only monitor alarms or security cameras, and do not have any front-line responsibilities (for example, responding to activated alarms or patrolling premises).
11. In 2011, Cabinet confirmed that property guards who are office-based with non front-line responsibilities should be excluded from the minimum training requirements [CBC Min (11) 11/16 refers]. Due to a drafting oversight at the time, this policy decision is not currently reflected in the Training Regulations.
12. The Amendment Regulations reflect the original Cabinet decision to exclude office-based property guards from the requirements, so that they are not required to undertake training that is not relevant to their work. No new policy decisions are required.

Changes to the New Zealand Qualifications Framework (NZQF) qualifications in security training

13. Under the Training Regulations, a person who holds an NZQF National Certificate in Security at Level 2 or higher is deemed to meet the training requirements (Regulation 5 and Regulation 4(1)(a)).
14. NZQF National Certificates in Security will be phased out by the end of 2021 and replaced with NZQF New Zealand Certificates in Security. The new qualifications have been approved by the New Zealand Qualifications Authority and will be available as soon as individual providers have their courses approved under the new standards.
15. The Skills Organisation, which is responsible for developing the training standards for the industry, has confirmed that the new qualifications should be deemed to meet the minimum training requirements under the Training Regulations.
16. The Amendment Regulations reflect these changes to the qualification standards.

Tribunals Powers and Procedures Legislation Act Commencement Order 2019

17. This Commencement Order will bring into effect some of the amendments the Tribunals Powers and Procedures Legislation Act 2018 has made to the PSPPI Act.¹
18. These amendments authorise the use of forms approved by the Ministry of Justice Chief Executive, following consultation with the Private Security Personnel Licensing Authority. This replaces the current requirement of prescribed forms. The new forms will reflect the changes to the Training Regulations.
19. This Order will also revoke the Private Security Personnel and Private Investigators (Forms) Regulations 2011.

Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019

20. This Commencement Order will bring into effect the remaining amendments to the Courts Security Act 1999 in the Courts Matters Act 2018.
21. These amendments authorise Court Security Officers to use their existing powers to deny entry, remove and detain people in a wider range of circumstances. This will enable them to deal with disruptive behaviour and low-level offending in court buildings more effectively. [CAB-16-MIN-0250.01 refers]

Courts Security Regulations 2019

22. These Regulations will authorise Court Security Officers to use their statutory powers to provide security in all tribunals that the Ministry of Justice administers.
23. The Courts Security Act 1999 authorises the making of regulations to bring further courts and tribunals within its scope. The Courts Security Act currently applies to all courts and three tribunals that the Ministry of Justice administers.

Timing and 28-day rule

24. The two Private Security Personnel legislative instruments that will come into force on 1 May 2019 comply with the 28 day rule.
25. A waiver of the 28-day rule is sought for the two Courts Security instruments on the grounds that more effective security in courts and tribunals is beneficial for the public. These instruments will come into effect on 8 April 2019.

Compliance

26. These legislative instruments comply with each of the following:
 - 26.1 the principles of the Treaty of Waitangi;
 - 26.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;

¹ Most amendments are already in effect and the remaining amendments will be brought into effect in late 2019.

- 26.3 the principles and guidelines set out in the Privacy Act 1993;
- 26.4 relevant international standards and obligations;
- 26.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

27. There are no apparent grounds for the Regulations Review Committee to draw these legislative instruments to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

28. The Parliamentary Counsel Office has certified the attached legislative instruments as being in order for submission to Cabinet.

Impact analysis

- 29. Regulatory Impact Analysis was undertaken on the Courts Security Act amendments that the Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019 will bring into effect [CAB-16-MIN-0250.01 refers].
- 30. The Treasury has determined a Regulatory Impact Analysis is not required for the other legislative instruments on the basis that the amendments have no or only minor impacts on businesses, individuals or not-for-profit entities.

Publicity

31. The Ministry of Justice will notify relevant stakeholders of the changes the legislative instruments make and when they will come into force.

Proactive Release

32. I propose to proactively release this paper in full within 30 business days of the decision.

Consultation

- 33. I have consulted with and received agreement from the Minister of Justice to submit this paper and these legislative instruments.
- 34. The Department of Internal Affairs, the Ministry of Business, Innovation and Employment, New Zealand Police, the Ministry for Women, the Department of Corrections and the Ministry of Social Development have been consulted on this paper.
- 35. The Skills Organisation and industry stakeholders were consulted during the development of the Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations.
- 36. The Private Security Personnel Licensing Authority and the Department of the Prime Minister and Cabinet have been informed.

Recommendations

37. I recommend that the Cabinet Legislation Committee:

1. note that on 7 June 2016 the Cabinet Social Policy Committee agreed to the Courts Security Act 1999 and Private Security Personnel Licensing Authority amendments that the Commencement Orders will bring into effect [CAB-16-MIN-0250.01 refers];
2. authorise the submission to the Executive Council of the:
 - 2.1. Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019;
 - 2.2. Tribunals Powers and Procedures Legislation Act Commencement Order 2019;
 - 2.3. Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019;
 - 2.4. Courts Security Regulations 2019.
3. note that the Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019 and the Tribunals Powers and Procedures Legislation Act Commencement Order 2019 will come into effect on 1 May 2019.
4. note that the Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019 and Courts Security Regulations 2019 will come into effect on 8 April 2019.
5. note that a waiver of the 28-day rule is sought for the two Courts Security instruments listed above:
 - 5.1. so that these two instruments can come into force on 8 April 2019;
 - 5.2. on the grounds that these instruments confer only benefits on the public.
6. agree to waive the 28-day rule so that the two Courts Security instruments can come into force on 8 April 2019

Authorised for lodgement

Hon Aupito William Sio

Associate Minister of Justice



Cabinet Legislation Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations and Other Legislative Instruments

Portfolio Justice

On 19 March 2019, the Cabinet Legislation Committee:

- 1 **noted** that on 7 June 2016, the previous government agreed to the Courts Security Act 1999 and Private Security Personnel Licensing Authority amendments that the Commencement Orders will bring into effect [CAB-16-MIN-0250.01];
- 2 **authorised** the submission to the Executive Council of the:
 - 2.1 Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019 [PCO 20496/12.0];
 - 2.2 Tribunals Powers and Procedures Legislation Act Commencement Order 2019 [PCO 21686/5.0];
 - 2.3 Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019 [PCO 21773/2.0];
 - 2.4 Courts Security Regulations 2019 [PCO 21687/4.0];
- 3 **noted** that the Private Security Personnel and Private Investigators (Minimum Training) Amendment Regulations 2019 and the Tribunals Powers and Procedures Legislation Act Commencement Order 2019 will come into force on 1 May 2019;
- 4 **noted** that the Courts Matters Act 2018 (Amendments to Courts Security Act 1999) Commencement Order 2019 and Courts Security Regulations 2019 will come into force on 8 April 2019;
- 5 **noted** that a waiver of the 28-day rule is sought for the two instruments referred to in paragraph 4 above:
 - 5.1 so that these two instruments can come into force on 8 April 2019;
 - 5.2 on the grounds that these instruments confer only benefits on the public;

- 6 **agreed** to a waiver of the 28-day rule so that the two Courts Security instruments can come into force on 8 April 2019.

Vivien Meek
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Hipkins (Chair)
Hon David Parker
Hon Stuart Nash
Hon Iain Lees-Galloway
Hon Tracey Martin
Hon Kris Faafoi
Hon Aupito William Sio
Hon Eugenie Sage
Hon Ruth Dyson (Senior Government Whip)

Officials present from:

Officials Committee for LEG

Hard-copy distribution:

Associate Minister of Justice