



Australian Institute of Private Detectives

President: John Bracey PO Box 276 Frenchs Forest NSW 2086

Website: www.aipd.com.au

Phone: (61 2) 9975 6430 Facsimile: (61 2) 9975 2147 Email: exec@aipd.com.au

APPLICATION FOR PUBLIC INTEREST DETERMINATION (PID) AND A TEMPORARY PUBLIC INTEREST DETERMINATION (TPID)

This application is made on behalf of the members of the Australian Institute of Private Detectives Ltd and Private Detectives generally in all States and Territories and is to be read in conjunction with the submission made to the Privacy Commissioner on her Review of the privacy Amendment (Private Sector) Act.

Australian Institute of Private Detectives Ltd A.C.N. 054 902 000

Vice President: Barry Sweet Phone: (61 2) 9484 2221 Facsimile: (61 2) 9484 0606

Secretary: Kurt Hippe Phone: (61 2) 9838 1575 Facsimile: (61 2) 9838 1576

Treasurer: Ken Armitage Phone: (61 2) 9743 5649 Facsimile: (61 2) 9743 1781

1. Applicant

Australian Institute of Private Detectives Ltd
(AIPD)

2. General basis for application

- 2.1** The exclusion of Private Inquiry Agents (PIA) and Commercial Agents (CA) from the collection of information by the Review Private Sector Provisions of the Privacy Act 1988 (Review)
- a. Contravenes the stated objectives of the Privacy Act 1988 itself.
 - b. Contravenes and impedes various Statutes and Regulations of the States and Territories of the Commonwealth of Australia.
 - c. Contravenes the International Covenant of Civil and Political Rights ratified by the Australian Commonwealth Government and therefore having the force of law.
 - d. Contravenes the Universal Declaration of Human Rights to which Australia is a signatory.
 - e. Contravenes and impedes various statutes of the Commonwealth of Australia.
 - f. Contravenes the Constitution of the Commonwealth of Australia.

And in so doing:

- a. Prevents persons from being equal before the courts and tribunals in both criminal and all civil jurisdictions.
- b. Precludes persons from securing a fair trial.
- c. Has the very real potential for the endangerment of the person and property of PIA and CA in the course of their work.
- d. Has the very real potential for endangerment of the person and property of persons other than PIA and CA.
- e. Has the very real potential for perverting the course of justice.
- f. Impedes free trade and competition.

- 2.2** In addition the Office of the Federal Privacy Commissioner in its Review of the Private Sector Provisions of the Privacy Act 1988 has misrepresented aspects of the AIPD Submission dated 21 December 2004.

3. Details of basis for application

3.1 Contravention of the stated objectives of the Privacy Act 1988 itself

See ANNEXURE 1

3.2 Contravention of various Statutes and Regulations of the States and Territories of the Commonwealth of Australia

The Review proposals are in conflict with the following Statutes and Regulations of the States and Territories of the Commonwealth of Australia.

- a. NSW Occupational Health & Safety Act 2000 and Occupational Health & Safety Regulation 2001.
See ANNEXURE 2.
- b. NSW Rules - Civil Procedures Act 1988
See ANNEXURE 3
- c. NSW Workplace Injury Management and Workers Compensation Act 1998
See ANNEXURE 4.
- d. QLD Workplace Health and Safety Act 1995
- e. SA Occupational Health, Safety and Welfare Act 1986
- f. NT Work Health Act 2005
- g. TAS Workplace Health and Safety Act 1995
- h. VIC Occupational Health and Safety Act 2004
- i. WA Occupational Health and Safety Act 1984

3.3 Contravention of the International Covenant on Civil and Political Rights

The Review proposals are in conflict with International Covenant on Civil and Political Rights (ratified by the Australian Government and therefore having the force of law).

See ANNEXURE 5

3.4 Contravention of the Universal Declaration of Human Rights

The Review proposals are in conflict with the Universal Declaration of Human Rights (Australia is a signatory to this Declaration. We cite Articles 7, 10 and 12 thereof.)

See ANNEXURE 6

3.5 Contravention of various statutes of the Commonwealth of Australia.

- a. Human Rights and Equal Opportunity Commission Act 1986.
See ANNEXURE 7
- b. Occupational Health and Safety (Commonwealth Employment) Act 1991 (See Sections 16, 39, 40, 41, 42, 43, 44, 46, 53)
- c. Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Act 2004 (See Sections 72, 81)
- d. Safety, Rehabilitation and Compensation Act 1988 (See Sections 98A, 108B, 108C, 108E, 108F)

3.6 Contravention of the Constitution of the Commonwealth of Australia.

See the AIPD submission to the Privacy Commissioner dated 21 December 2004.

3.7 Commissioner's misrepresentation of the AIPD Submission

See ANNEXURE 8.

The AIPD requests the Commissioner to make a Determination upon this application for a Public Interest Determination (PID) and or a temporary Public Interest Determination (TPID) after considering all of the information included in this submission as well as the submission to the Privacy Commissioner made by the Australian Institute of Private Detectives Ltd on 21/12?04 in relation the Review of the Privacy Amendment (Private Sector) Act.