Speech by

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SECURITY PROVIDERS AMENDMENT BILL

Mr CRIPPS (Hinchinbrook—NPA) (2.33 pm): I rise to make a contribution to debate on the Security Providers Amendment Bill 2006. The main purpose of this bill is to amend the Security Providers Act 1993 to bring Queensland into line with national trends with respect to licensing, probity and character checks that reflect the agreed position of the Council of Australian Governments approach to counter-terrorism and aims to address the problem of rogue security service operators entering the industry. The bill will extend the scope of the legislation to include the licensing of those involved in the installation of security equipment, those operating electronic security surveillance equipment, those handling dogs involved in the security industry and those security guards and security advisers employed by individual venues. The bill will also broaden the definition of a security officer and provide for a licensing regime that will cover crowd controllers and private investigators in addition to security officers and firms.

This bill creates more regulation in an already highly regulated industry. The nature of the regulation will determine if this addresses or exacerbates the problems experienced by the security industry. The main characteristic of the bill is that it increases the probity checks on operators wishing to continue in or enter the industry. I do not think there would be any opposition to more comprehensive probity checks on participants in the security industry in the community given the nature of the services that security providers deliver. However, we must be careful that the proposed amendments to this legislation do not create a situation where the process of certification for new security providers becomes too difficult and/or onerous. Overly restrictive barriers to entry into the security industry would limit the recruitment of new guards into an industry that is growing rapidly and that already suffers from a shortage of qualified personnel. There are numerous regulatory bodies in association with their departments that are already involved in the certification of security providers. This no doubt causes significant administrative challenges for businesses trying to deal with the bureaucracy. There needs to be a streamlined regulatory approach to governing the security industry, as licensed security providers already come under the scrutiny of the Queensland Police Service, in particular the Queensland Police Service Liquor Investigation Unit, Liquor Licensing and other divisions within the Office of Fair Trading.

There needs to be some clarification of what constitutes a public place for the purposes of defining the duties and obligations of security providers at venues. This is a question of duty of care balanced against the scope of jurisdiction that security guards have in discharging their responsibilities. Security providers are constantly placed in difficult quandaries where they are obliged as part of their duty of care to assist patrons who have exited their venue but are no longer on the licensed premise from potentially hazardous situations that they may find themselves in. However, security providers are extremely limited from a jurisdictional perspective because security providers in these circumstances are no longer on the licensed property to which they are assigned at that point in time. They have limited indemnity from events that may occur while they discharge that duty of care. The minister might reflect on the lack of practicality that having several different types of licences for security providers largely delivering the same service to customers provides. For example, categories include a security guard licence, a crowd control licence, a bodyguard licence, an armed guard licence and a dog handling security licence, all delivering similar security services. The fact that there are several separate individual categories of licences gives the

impression that the government is reluctant to provide any encouragement for security providers to train for any more than a single area in the security industry.

While no-one would oppose sensible changes to probity checks to guard against entry by rogues into the security industry, given that the skills shortage in Queensland is also affecting this industry, overregulation does not encourage new industry participants or service providers. With police and background checks currently required for applicants seeking a security guard licence, it would be opportune to simultaneously issue these security providers with a blue card, for instance. Blue cards require the same police and background checks. As such, it would make sense to issue one with the other, especially given that security guards and crowd controllers are frequently required to deal with minors. Clause 15 proposes changes to the legislation to allow the chief executive to consider unrecorded convictions such as findings of guilt where no conviction is recorded for certain offences when considering an application for a security provider's licence.

Similarly, clause 16 amends the act to allow the chief executive to consider charges alleged against a person for the purposes of assessing an application. It is argued in the explanatory notes accompanying this bill that this deviation from the usual practice of presuming an individual's innocence until proven guilty ought not to apply in this instance because we need to recognise that security providers occupy a special position of trust within the community involving the protection of people and property. The explanatory notes argue that it is appropriate that a higher standard of character be expected from an industry occupying such a position of responsibility. I have some sympathy with this sentiment, although I wish to again point out that the department and other agencies involved in the consideration of these applications or overseeing their implementation ought to be circumspect in the way in which they apply these new provisions. Some industry bodies have expressed concern that these changes may result in a dramatic decrease in security provider numbers. These arrangements will need to be implemented judiciously so as not to exacerbate the current shortage of qualified personnel in this industry, which is already short of licensed security providers.

Broad powers delivered to the executive arm of government to deny an application for a licence based on the presence of unrecorded offences against an individual or for charges that have been alleged only and not substantiated are certainly contrary to some fundamental principles that have been part of our legal system for some time. There may be a range of reasons the judicial arm of government may decide not to record a conviction. The judicial arm of government has been entrusted with that discretionary power for some time. It is usually exercised when there are mitigating or extenuating circumstances to be taken into account. As I have indicated previously, given the nature of the services being provided by the security industry, I understand why these discretionary powers have been introduced by the government in this bill, but I hope that there will be a concerted effort to ensure that these provisions are not abused or exploited.

Currently, legitimate firms operating in the security provider industry find it difficult to obtain reliable information about existing and/or prospective employees or the licences that they hold. This inability reduces the effectiveness of the various compliance programs or initiatives that are implemented by responsible firms in the security provider industry. Despite these difficulties, these firms are required by statutory authorities regulating the security provider industry to maintain accurate and up-to-date compliance checks on their employees. As such, the government should consider an appropriate interface between firms and the database held by regulatory authorities to assist those firms to keep an accurate and up-to-date compliance register. This would give the government an opportunity to set some industry standards and benchmarks in relation to the registration of security providers, the regular mandatory training of security personnel and, conceivably, to establish an industry code of conduct for firms in the security provider industry to go through an induction process with their employees about the provision of security provider services to clients.

Some industry groups, principally those involved in the hospitality industry, have concerns about the increased regulation of in-house security at individual venues because of the potential costs that they may incur as a result of a higher level of training and certification required for in-house security staff. However, other industry groups, principally those providing specialised security services, strongly support the further regulation of in-house security as this would give some parity to the two areas of the industry. It is perceived by the firms providing specialised security services that the benefits will outweigh any costs involved in the tighter regulation of in-house security services. From this perspective, I expect that the community should be able to expect a higher standard of professionalism from security staff employed directly by individual venues as opposed to contracted security staff from a security provider firm as they will be better trained to undertake these roles.

Clause 6 of the bill provides a new definition of 'crowd controller'. This definition needs to be refined and clarified to define more clearly the roles and jurisdiction of a crowd controller, including some of the roles that a crowd controller may be required to undertake. For example, the definition of 'crowd controller' in the bill does not provide an adequate description of the role when that person is acting as a door host at the entry to the premises at which that person is providing those security services.

While on the topic of appropriate descriptions for security providers, clause 6 of the bill provides a description of a crowd controller as 'a bouncer at a hotel, a nightclub or rock concert'. In light of some of the negative media attention that has been focused on certain incidents involving security providers recently, which this bill seeks to address, I suggest to the government, at least in terms of the text of this bill and the subsequent act, that the term 'bouncer' might not be entirely appropriate to describe crowd controllers who hold a security provider's licence. Indeed, if we are seeking to improve the standards and performance of the industry, the very first thing we might do is eliminate the colloquialisms in the text of the legislation that regulates it.

The definition in the bill does not provide any guidance with respect to the scrutiny of an individual's identification as they enter the venue. Checking the identification of patrons entering a licensed venue is a fundamental function of crowd controllers. That ought to be a significant component of any training provided to security officers by industry regulators as part of the process of issuing licences.

Clause 8 of the bill provides for a person to be considered to be a security officer if that person is employed, whether or not principally, to guard, patrol or watch the liquor licensed premises of the employer. This clause could be interpreted to read that, under this legislation, ancillary staff, such as bottle shop attendants attached to a licensed premises, could be considered to be security officers. If the government intends this to be the case, it will need to provide for these ancillary staff to be properly licensed. If the government does not intend for this to be the case, clause 8 ought to be tightened up to provide some clarity to the industry.

Clause 21 of the bill provides for the mandatory supervision of security officers on restricted licences. I am in agreement with the principle of experienced security licence holders being required to supervise provisional security licence holders. But I wonder if the description of 'appropriate direct supervision' needs to be given some further consideration. The bill describes 'appropriate direction supervision' simply as—

... supervision of a security provider by another security provider who—

(a) is a security provider of the same type as the supervised security provider; and

(b) holds an unrestricted licence for carrying out the functions.

Perhaps the government could consider the introduction of a category of unrestricted security licence holder that would be appropriate to undertake supervision of a restricted licence holder, such as an open licence holder who has completed a supervision training component delivered by the regulatory authorities issuing licences or by security provider firms as part of ongoing training. That would enhance professional standards in the industry and deliver better security services to the community in the longer term.

Clause 21 provides for a condition of a licence awarded to a security firm to be a requirement that the licensee monitors, at stated intervals, whether or not its employees who are employed as security providers are complying with this legislation. So companies will be required to monitor all of their employees to ensure that they are compliant with the legislation as a condition of their licences. I am not sure of the ramifications of an employee of a firm not complying with the act. Will the breach of the legislation by an employee see the firm jeopardise its own licence? Or will simply the ability to demonstrate that the firm was monitoring its employees be sufficient to avoid any repercussions?

The bill is not clear about the practicalities of this clause. If taken literally, this clause would be a particularly onerous task for security firms to undertake. Firms would need to devote enormous resources to establish compliance departments to audit compliance by employees. Surely a better way of encouraging compliance would be rigorous initial training of new employees during the licensing application process, a comprehensive induction process for security officers when engaged by a firm, and ongoing structured training for security providers as the regulatory environment changes.

To conclude, the main point I wanted to make was to encourage the government to provide for regular ongoing and mandatory training for all guards regardless of the licence they hold. If it is legislated, security provider firms can enforce it rather than have it occur on an ad hoc basis across firms that may deliver at varying standards, at varying degrees of regularity or not at all. Regulatory authorities will need to engage security provider firms during the implementation of these new arrangements and subsequently to give them an opportunity to deliver quality training to new entrants into the security industry. In this way we should be able to provide an improved framework for the delivery of security services to the clients of those firms providing the services and thus to the people of Queensland.