

# **Security Providers Amendment Bill 2006**

## **Explanatory Notes**

### **Title of the Bill**

Security Providers Amendment Bill 2006.

### **General Outline**

#### **Background**

The *Security Providers Amendment Bill 2006* (the Bill) amends the *Security Providers Act 1993* (the Act).

The Act provides a licensing regime for crowd controllers, security officers, private investigators and security firms (together 'security providers'). Security providers must be licensed under the Act to operate in Queensland.

Crowd controllers keep order around public places including nightclubs and hotels. Security officers provide services such as mobile and dog patrols, act as armed and unarmed guards and respond to alarms. Private investigators typically investigate missing persons and conduct covert surveillance operations on behalf of their clients.

A security firm is a business licence under which the services of crowd controllers, security officers and private investigators are provided. The Act also prescribes certain requirements to ensure a licensee is an 'appropriate person' and suitable to hold a licence.

The current licence categories were established upon commencement of the Act in 1995 and no longer reflect the diverse occupations that are now in the security industry. The private security industry is an extensive part of crime prevention in Australia with just over twice the number of security personnel to police.

#### **Review of the Security Providers Act 1993**

On 11 August 2004, a review of the Act was announced as part of the Government's commitment to maintain effective, contemporary and quality

legislation. This is consistent with the Government's priority to protect and enhance community safety through implementing strategies which contribute to safe communities. In April 2005, a Consultation Paper was released entitled '*Review of the Security Providers Act*' which canvassed issues of concern and sought public feedback for the review of the Act including:

- the scope and coverage of the Act in relation to existing licence categories; and
- probity checks and the test to determine an applicant's appropriateness to hold a licence.

In late 2005 and early 2006, a Public Benefit Test was undertaken to assess whether the proposals to increase the licensing categories and strengthen the 'appropriate person' suitability criteria would result in a net benefit to the community. This process was completed with specific recommendations to amend the Act to implement these proposals.

### **Council of Australian Governments and national harmonisation**

The Bill also implements a recent call by the Council of Australian Governments (COAG) for harmonisation of State and Territory private security licensing regimes.

The COAG has recognised that a national security industry has a key role to play in counter-terrorism activities. The industry has the potential to fulfil a role in protecting critical infrastructure and, in some cases, provide a first response to a terrorist incident.

The Act currently does not licence as many security activities as the majority of other States and Territories. Nor does it contain as high a standard of probity criteria to filter out those who are not appropriate to work in an industry trusted by the community to protect people and property. A nationally consistent approach to licensing, probity and character checks will help ensure that rogue elements do not flock to the State with the lowest standards.

### **Policy Objectives of the Bill**

The key policy objectives of the Bill are to:

- regulate previously unregulated sectors of the industry such as security equipment installers, electronic surveillers, dog handlers, in-house security guards and security advisers. This will allow the Department of Tourism, Fair Trading and Wine Industry Development

(the Department) to check their backgrounds, mandate training and monitor their appropriateness to remain in the industry;

- tighten background probity checks and enhance the factors that may be used to determine whether a person is suitable to remain in the industry;
- allow the Department to consider unrecorded convictions for disqualifying offences, investigative information from the Queensland Police Service (QPS), and other background information to weed inappropriate persons out of the industry;
- provide for better information sharing between the Department and the QPS by allowing the Department to share licensing information with QPS' databases;
- mandating codes of practice to ensure that everyone in the industry meets new standards of behaviour;
- mandate on-going training to require security personnel to learn up-to-date techniques for maintaining order and avoiding escalation of disputes;
- increase the statutory penalties for persons and entities operating without a licence and for those who engage unlicensed personnel; and
- create a new short term 'trainee' / restricted licence to encourage people into the industry who meet probity and suitability requirements.

The Bill is considered to be a reasonable and appropriate way of achieving the objectives.

### **Consistency with Fundamental Legislative Principles**

Clause 15 of the Bill allows the Chief Executive of the Department to consider unrecorded convictions, such as findings of guilt where no conviction is recorded for certain offences. However, the Bill only permits consideration of findings of guilt for disqualifying offences as prescribed under the Act as made or accepted by a court within the past five years immediately prior to requesting a person's criminal history. This change is consistent with the national approach to assessing a person's suitability to operate in the security industry, thus assisting Queensland meet its obligation for national harmonisation of licensing regimes as recommended by the COAG. This change also recognises that security providers occupy a special position of trust within the community involving the protection of people and property. It is appropriate that a

higher standard of character be expected from an industry occupying such a position of responsibility.

The Bill will amend the definition of ‘criminal history’ to permit the Chief Executive to consider charges alleged against a person for the purposes of assessing a person’s appropriateness. Clause 16 simply provides legislative authority for obtaining this information on an applicant or licensee so that the existing powers of the Act can be more effectively applied. The Bill will allow the Chief Executive to defer the making of a decision to grant or to refuse to grant a licence until the end of the proceedings where the person has been charged with a disqualifying offence.

The amendments to section 11(4) of the Act in relation to the appropriateness criteria for applicants and licensees will apply to all persons. Consequently, the records of existing licensed security providers will be reviewed. If they are judged unsuitable to hold a licence under the new provisions, their licence will be cancelled.

It is arguable that this new and stricter criterion may have a retrospective operation on existing licensees. For example, allowing the Chief Executive to consider unrecorded convictions which a person may have received in court during the past five years.

The provisions introducing new criteria to the appropriateness test simply enable consideration for suspension, cancellation of, or refusal to grant or renew a licence in the future which in no way affects anything done by a person in the past. No penal power will be exercised and nothing existing licensees have done in the past will be affected.

The test to determine a person’s appropriateness for the licensing regime is one of the most important parts of the Act which assists in ensuring only persons without relevant criminal history or bad character operate as security providers. The appropriateness test will contribute to preventing such people operating in the industry which in turn assists maintenance of public safety and protection of property.

## **Commencement**

Commencement of the amending provisions will be through proclamation by the Governor in Council and is expected to occur during 2007. There will be an approximate five month lead-in time prior to commencement in which an extensive communication strategy will further inform the security industry and the community of these changes. There will be sufficient time for applicants to be fully informed of the new criteria which will be applied to their applications.

## **Administrative cost to Government**

On 28 July 2006, the Cabinet Budget Review Committee approved funding for additional resources for the increased departmental licensing and compliance activities which will result from the proposed amendments.

The Licensing Branch of the Office of Fair Trading will receive additional staff to assist with the anticipated increase in licence applications including the increase in scrutiny needed with the additional probity criteria.

The licensing computer system will be upgraded during the first half of 2007 to incorporate the new licence categories and improve the interaction of the licensing computer system with those of the Queensland Police Service so that more effective criminal history information may be provided. This will align with the scheduled commencement of the new provisions.

The Compliance Division of the Office of Fair Trading will also receive additional staff to assist with the increase in compliance activities.

## **Consultation**

### Government

All government departments have been consulted. The Department of the Premier and Cabinet, Queensland Treasury, the Department of Justice and Attorney-General and the Queensland Police Service were consulted during the development of the Public Benefit Test and during the drafting of the Bill.

### Community

In April 2005, a Consultation Paper was released to identify issues of concern in the security industry and for stakeholders to express their views regarding the current application of the Act. The Consultation Paper was developed with the assistance of a Working Party consisting of representatives of the security industry, trainers, retailers, consumer and community organisations, academia and relevant Government departments.

The availability of the Consultation Paper was widely promoted and advertised in *The Courier Mail* and a media release promoted the release of the Paper and encouraged feedback from interested parties. Over 125 copies of the Consultation Paper were directly distributed by the Office of Fair Trading. A total of 112 submissions were received.

Approximately 89% of respondents agreed that the licence categories should be expanded to include, at a minimum, the activities of installing,

maintaining or repairing security equipment and providing advice on, and solutions to, security risks. Approximately 71% of respondents also agreed that criteria under the Act should be modified to allow for increased probity checking.

As part of the community consultation for the Public Benefit Test, members of the security industry and allied industries provided feedback on the perceived impacts arising out of the proposals. 47 submissions were received from the community on a draft Public Benefit Test report. In general, strong support was shown for these proposals throughout submissions. Stakeholders noted that including additional security industry activities in the licensing regime and strengthening the 'appropriate person' / probity criteria under the Act will provide the community with a safer and more competent industry.

More specific and detailed consultation with industry groups has been undertaken, including with the Australian Security Industry Association Limited, Building Service Contractors Association of Australia, Queensland Retail Traders and Shopkeepers Association and a large number of individual security firms. The majority support the general policy principles of expanding licence categories, tightening probity requirements, and instituting industry training and a code of practice. Some industry groups, such as the Queensland Retail Traders and Shopkeepers Association have concerns about regulation of 'in-house' security because of the potential cost impacts, however, other industry groups strongly support further regulation of 'in-house' security and the benefits flowing to industry and the community outweighs any costs.

The Bill was released in draft format to the community on 7 October 2006 with a closing date for written comments on 6 November 2006. Although there was comment that the draft Bill does not go far enough in terms of regulating the entire security industry, there was general confirmation of support from stakeholders that the changes will assist in improving the quality of personnel operating in the industry.

## Notes on Provisions

### **Part 1                      Preliminary**

#### **Clause 1                      Short title**

Clause 1 is the short title of the *Security Providers Amendment Act 2006*.

#### **Clause 2                      Commencement**

Clause 2 provides that the Act will commence on proclamation by the Governor in Council.

#### **Clause 3                      Act amended**

Clause 3 notes that this Bill amends the *Security Providers Act 1993*.

#### **Clause 4                      Amendment of s 3 (Definitions)**

Clause 4 amends section 3 of the Act containing definitions used in the Act and moves all definitions in section 3 to new Schedule 2 of the Act.

Existing definitions have been amended and several new definitions have been included to clarify the application of the Act.

A definition of ‘appropriate direct supervision’ is provided for the purpose of provisions relating to restricted licences. The definition of ‘appropriate licence’ includes the concept of a class 1 or 2 licence into the Act.

A ‘class 1 licence’ is defined as an unrestricted licence for carrying out the functions of one or more of the following:

- (i) a bodyguard;
- (ii) a crowd controller;
- (iii) a private investigator;
- (iv) a security officer;
- (v) a security firm supplying security firm services of a person mentioned in any of subparagraphs (i) to (iv) who holds a class 1 unrestricted licence; or

a restricted licence for carrying out 1, or more than 1, of the functions of a bodyguard, crowd controller, private investigator or security officer.

A 'class 2 licence' is defined as an unrestricted licence for carrying out the functions of one or more of the following:

- (i) a security adviser;
- (ii) a security equipment installer;
- (iii) a security firm supplying security firm services of a person mentioned in subparagraph (i) or (ii) who holds a class 2 unrestricted licence; or

a restricted licence for carrying out the functions of either or both a security adviser or security equipment installer.

A definition of 'charge', such as 'a charge on an arrest' is provided to clarify the use of this term in the definition of 'criminal history'.

'Conviction' is defined as a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded. This definition links into the definition of 'criminal history' and will allow recorded convictions and findings of guilt without a conviction being recorded of a person required to be an appropriate person for the purposes of *Security Providers Act 1993* to be considered. However consideration of this information must only be taken into account with the factors in section 11(4) of the Act to determine a person's appropriateness. Section 11(4) of the Act prescribes the matters the Chief Executive may consider when determining a person's appropriateness for the purposes of the Act.

A definition of 'corresponding authority' is provided to mean an authority issued under the law of another State that is equivalent to an unrestricted licence for carrying out the functions of 1 or more of the following:

- (a) a bodyguard;
- (b) a crowd controller;
- (c) a security officer;
- (d) a security firm supplying security firm services of a person mentioned in paragraph (a), (b) or (c) who holds a class 1 unrestricted licence.

This means a licence or similar permit in another jurisdiction which authorises the carrying out of the functions of a bodyguard, crowd controller, a security officer or a security firm.

The definition of 'criminal history' has also been modified to include every finding of guilt without a conviction being recorded; recorded convictions

for an offence and every charge made against a person for an offence in Queensland or elsewhere.

The definition of 'public place' has been modified to provide some clarity about what is included without providing an exhaustive list of what is considered a public place.

A 'restricted licence' definition is provided stating that it is a licence for carrying out the functions of a type of security provider stated in the licence under appropriate direct supervision.

An 'unrestricted licence' is defined as a licence for carrying out the functions of a type of security provider stated in the licence, other than under appropriate direct supervision.

#### **Clause 5                      Amendment of s 4 (Who is a security provider)**

Clause 5 amends the definition of a security provider to include:

- (a) a bodyguard;
- (b) a crowd controller;
- (c) a private investigator;
- (d) a security adviser;
- (e) a security equipment installer;
- (f) a security officer;
- (g) a security firm.

This introduces new areas of security activities: the provision of security advice and the installation of security equipment.

#### **Clause 6                      Replacement of s 5 (Who is a crowd controller)**

Clause 6 removes the existing section 5 and inserts a new section 4A definition of a bodyguard.

This definition and the new definition of a crowd controller separates the definition of a bodyguard from the definition of a crowd controller.

A new definition of 'crowd controller' is provided which states that a crowd controller is a person who, for reward, is at a public place principally

for keeping order in or about the public place, including, for example, by doing any of the following:

- (a) screening the entry of persons into the place;
- (b) monitoring or controlling the behaviour of persons in the place;
- (c) removing persons from the place.

This definition also excludes a person from this definition if that person merely checks that a person is allowed admission to the public place by having paid for the admission or has an invitation or pass allowing the admission.

### **Clause 7                      Amendment of s 6 (Who is a private investigator)**

Clause 7 replaces the section 6 definition of a private investigator.

A 'private investigator' is defined as a person who, for reward:

- (a) obtains and gives private information about another person, without the other person's express consent; or
- (b) carries out surveillance for obtaining private information about another person, without the other person's express consent; or
- (c) investigates the disappearance of a missing person.

This new definition clarifies the activities which are captured for the purposes of licensing private investigators.

### **Clause 8                      Replacement of s 7 (Who is a security officer)**

Clause 8 replaces section 7 with new sections 6A, 6B and 7.

New section 6A provides the definition of a security adviser as a person who, for reward, gives advice about security equipment or security methods or principles. This is defined as security advice.

However, a person is not a security adviser merely because:

- (a) the person—
  - (i) is an employee of a person who does not, for reward, give security advice; and
  - (ii) as an employee, gives security advice to the employer; or

- (b) the person—
  - (i) is an employee of a person who, for reward, gives security advice; and
  - (ii) as an employee, gives security advice to the employer in relation to the employer's own security and not in relation to the security of someone else for whom the employer gives security advice for reward; or
- (c) the person is an architect under the *Architects Act 2002* and gives security advice in providing architectural services within the meaning of that Act; or
- (d) the person is a registered professional engineer under the *Professional Engineers Act 2002* and gives security advice in providing professional engineering services within the meaning of that Act.

New section 6B provides a definition of a security equipment installer as a person who, for reward, installs, repairs, services or maintains security equipment.

However, a person is not a security equipment installer merely because:

- (a) the person—
  - (i) is an employee of a person who does not, for reward, install, repair, service or maintain security equipment; and
  - (ii) as an employee, installs, repairs, services or maintains the employer's security equipment; or
- (b) the person—
  - (i) is an employee of a person who, for reward, installs, repairs, services or maintains security equipment; and
  - (ii) as an employee, installs, repairs, services or maintains the employer's security equipment; or
- (c) the person carries out retail key cutting; or
- (d) the person installs a basic security item in a building owned or occupied by the person; or
- (e) the person installs a basic security item in a building owned or occupied by someone else during its construction, repair or renovation.

New section 6B defines a 'basic security item' to mean:

- (a) a portable safe weighing not more than 50kg; or
- (b) a barrier security item (examples of a barrier security item provided in the section include a security mesh door or window grille); or
- (c) an electronic or mechanical lock used for basic household security (examples are provided as including a door lock, window lock or padlock); or
- (d) a motion sensor light that does not also activate an alarm.

New section 7 provides a new definition of a ‘security officer’ who is a person who, for reward, guards, patrols or watches another person’s property, with or without a guard dog, including by:

- (a) personally patrolling the property; or
- (b) personally monitoring the property by operating an audiovisual or visual recording system, a radio or other electronic monitoring device.

This new definition clarifies the types of functions a security officer may perform.

New section 7 confirms that this definition applies to a person even if the person’s duties include guarding or watching other persons lawfully on property in a way that is not a close personal protection service.

However, each of the following is not a security officer for the purposes of new section 7:

- (a) an engaged service provider within the meaning of the *Corrective Services Act 2006*, in carrying out the engaged service provider’s functions under that Act;
- (b) a person who is an employee of an engaged service provider within the meaning of the *Corrective Services Act 2006*, in carrying out the functions of the person’s employment.

A person is also not a security officer merely because the person:

- (a) is an employee of a person who does not, for reward, guard, patrol or watch another person’s property, and as an employee, guards, patrols or watches the employer’s property; or
- (b) is an employee of a person who, for reward, guards, patrols or watches another person’s property, and as an employee, guards, patrols or watches the employer’s property.

The existing exemption is modified by this clause so that a person who is an employee and is employed principally to guard, patrol or watch the employer's property is a security officer.

New section 7 confirms that a person is also a security officer if that person is employed, whether or not principally, to guard, patrol or watch liquor licensed premises of the employer.

**Clause 9                      Amendment of s 8 (What is a security firm)**

Clause 9 amends section 8 by using consistent language for the definition of a security firm.

**Clause 10                     Insertion of new s 8A**

Clause 10 inserts a new section 8A definition of 'security equipment' as acoustic, electronic, mechanical or other equipment:

- (a) designed, adapted, or purporting to provide or to enhance property security; or
- (b) for protecting or watching property.

Examples provided include an alarm, an alarm monitoring system, an audio, or visual, recording system, an electric, electro-mechanical, magnetic or biometric access control device, an intrusion detector, including a motion, infra-red, microwave or contact detector or a safe or vault.

Section 8A excludes from the definition of security equipment a device for monitoring inventory, product or stock loss and an item designed to minimise the possibility of motor vehicle theft, including, for example, a motor vehicle alarm or immobiliser.

**Clause 11                     Insertion of new Part 2, Division 1 Heading**

Clause 11 inserts a new heading.

**Clause 12                     Amendment of s 9 (Requirement to be licensed)**

Clause 12 replaces the penalty regime for performing the functions of security provider while unlicensed and for engaging an unlicensed person to perform the functions of a security provider.

**Clause 13                    Insertion of a new Part 2, Division 2 Heading**

Clause 13 inserts a new heading.

**Clause 14                    Amendment of s 10 (Application for licence)**

Clause 14 amends section 10 by providing that an application must be in the approved form and that the applicant must state in the application:

- (a) the term of the licence being applied for; and
- (b) if the functions of more than one type of security provider are intended to be carried out under the licence—each type of security provider for which the licence is sought; and
- (c) if the application is for a security firm licence—the security firm services intended to be supplied under the licence.

This amendment confirms that only an individual may apply for, or be granted, a licence for carrying out the functions of any of the following;

- (a) a bodyguard;
- (b) a crowd controller;
- (c) a private investigator;
- (d) a security adviser;
- (e) a security equipment installer;
- (f) a security officer.

Clause 14 also amends section 10(5) by placing a time limitation on the provision of additional information for an application.

If this additional information has not been provided within this stated period, the applicant is taken to have withdrawn the application if the applicant does not have a reasonable excuse.

**Clause 15                    Amendment of s 11 (Entitlement to licences—individuals)**

Clause 15 amends section 11(2) by requiring only applications for a class 1 licence, other than a security firm or restricted licence, to include successful completion of an approved training course for the carrying out the functions of each type of security provider for which the licence is sought.

Where a security provider has not renewed their licence and has not worked in the industry for a short period of time, section 11 has been amended so that if that person applies for a licence later and previously held a licence for carrying out the functions of each type of security provider for which the licence is sought, the Chief Executive may satisfy themselves of the competency requirement in section 11(2)(b). This is dependent upon that applicant having held the same type of licence within one year of the application.

Clause 15 also amends the matters the Chief Executive can consider when assessing a person's appropriateness to be licensed. In addition to the current matters, the Chief Executive can consider whether:

- the person has been convicted of an offence for which a conviction has been recorded, including an offence to which the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 applies. This means that recorded convictions outside of the 10 year rehabilitation period may also be considered;
- an unrecorded finding of guilt has been made against the person in relation to a relevant offence and has not been quashed or set aside by a court;
- investigative information about the person in relation to a disqualifying offence that indicates either or both of the following -
  - the person is a risk to public safety;
  - the holding of a licence by the person would be contrary to the public interest;
- any other information indicating the granting of the licence to the person would be contrary to the public interest.

Clause 15 defines 'relevant offence' for the purposes of this amendment to mean a disqualifying offence, or an offence that would be a disqualifying offence if committed in Queensland, committed by a person when the person was an adult and within the previous 5 years. This amendment relies on the existing definition of a disqualifying offence in the Act.

Clause 15 also defines 'unrecorded finding of guilt', in relation to a relevant offence, to mean a finding of guilt, or the acceptance of a plea of guilty, by a court, in relation to the offence, without recording a conviction for the offence.

**Clause 16**                      **Amendment of s 12 (Inquiries about a person's appropriateness to hold a licence)**

Clause 16 replaces the existing section 12(2) and 12(3) by providing that the Chief Executive may ask the Commissioner of Police to give the Chief Executive the following written information about a person to determine their appropriateness to hold a licence:

- a report about the person's criminal history;
- a brief description of the nature of the offence giving rise to a conviction or charge mentioned in the person's criminal history.

The Commissioner of Police must comply with such a request and this duty imposed on the Commissioner of Police to comply with the request applies only to information in the Commissioner's possession or to which the Commissioner has access.

**Clause 17**                      **Insertion of new ss 12A-12C**

Clause 17 inserts new provisions in relation to criminal history and investigative information and how it can be used in assessing a person's appropriateness to hold a licence.

Where a person's criminal history changes and the Commissioner of Police reasonably suspects a person is the holder of, or an applicant for, a licence, the Commissioner of Police may notify the Chief Executive that the person's criminal history has changed.

Where the Commissioner of Police reasonably suspects a person is a holder of, or an applicant for, a licence, the Commissioner of Police may give the Chief Executive information about an investigation relating to the possible commission of a disqualifying offence by the person. The provision of this information will be an initiative of the Commissioner of Police and will not result from a request by the Chief Executive.

This information given to the Chief Executive will be subject to the same confidentiality provisions for this type of information as must be maintained by the Commissioner of Police.

Criminal history information and investigative information held by the Commissioner of Police can only be used by the Chief Executive to determine a person's appropriateness to be licensed. Any information relating to charges against a person for disqualifying offences may be used only to decide whether to grant, suspend or refuse to renew a person's licence in terms of the existing provisions of the Act.

The Chief Executive must have regard to when the offence was committed, was alleged to have been committed, or may possibly have been committed, the nature of the offence and its relevance to the person carrying out the functions of a security provider under the licence and anything else the Chief Executive considers relevant to the decision.

**Clause 18**                      **Amendment of s 13 (Entitlement to licences-corporations or firms)**

Clause 18 amends section 13 by distinguishing between conditions imposed by the Chief Executive and statutory conditions on a security firm licence and also confirms that consideration of the appropriateness of a person who is an officer of a corporation or partner in a partnership uses the same appropriateness criteria in section 11(3)-(5) and sections 12 and 12C.

**Clause 19**                      **Amendment of s 14 (Decision on application)**

Clause 19 amends section 14 by requiring a licence to state each type of security provider function which may be carried out under the licence.

**Clause 20**                      **Insertion of new s 14A, Part 2, Division 3 Heading and s 14B**

Clause 20 inserts a new section 14A which allows the continuation of a restricted licence where the restricted licensee has applied for an unrestricted licence and the Chief Executive has not, before the restricted licence ends, decided whether or not to grant the unrestricted licence.

Under these circumstances the restricted licence is taken to continue in force until the Chief Executive grants, or refuses to grant, the unrestricted licence or the person withdraws the application for the unrestricted licence.

The restricted licence is cancelled on the day the unrestricted licence is granted by the Chief Executive to the person.

Clause 20 also inserts a new Division 3 Heading for conditions and term of a licence.

New section 14B is inserted which provides for statutory conditions for a restricted licence. A restricted licensee may only carry out the functions of each type of security provider stated in the licence. When carrying out these functions, that person must be under appropriate direct supervision.

Non-compliance with these conditions enables consideration by the Chief Executive to be given to whether to suspend, cancel or refuse to renew a licence.

### **Clause 21                      Amendment of s 15 (Conditions of licence)**

Clause 21 amends section 15 by specifically providing that conditions imposed on a licence may include:

- a condition about the licensee's completion of an approved training course for carrying out the functions of the type of security provider stated in the licence; and
- for a security firm licence—a condition that the licensee monitors, at stated intervals, whether or not its employees who are employed as security providers are complying with the Act.

### **Clause 22                      Replacement of ss 16-19**

Clause 22 replaces existing section 16 by providing that a licence, other than a restricted licence, may be issued for a term of one or three years. A restricted licence may only be issued for a maximum term of six months and cannot be further issued to a person for carrying out the functions that were authorised under the first issued restricted licence.

Clause 22 also inserts a new section 17 which provides for the power to amend a licence by the Chief Executive when requested by a licensee. A new section 18 is inserted which empowers the Chief Executive to consider whether a licence, other than its statutory conditions, should be amended and where the licensee has not applied for the amendment under new section 17.

A new section 19 is inserted which empowers the Chief Executive to require a licensee to return the licence within a stated period, of at least 14 days, to enable the Chief Executive to record on the licence an amendment of the licence made under new sections 17 or 18.

### **Clause 23                      Amendment of s 20 (Renewal of licence)**

Clause 23 amends section 20 by empowering the Chief Executive to consider deferring a decision to renew or refuse to renew a licence until the end of proceedings for a charge for a disqualifying offence against a person.

**Clause 24**                      **Amendment of s 21 (Grounds for suspension, cancellation or refusal to renew)**

Clause 24 amends section 21 by adding that contravention of a code of practice is also a ground for suspension, cancellation or refusal to renew a licence.

**Clause 25**                      **Insertion of new s 25A and new Part 2, Division 6 Heading**

Clause 25 inserts a new section 25A which was previously section 18. This amendment simply moves this provision to a more suitable place in the Act.

**Clause 26**                      **Amendment of s 26 (Right to appeal to the Court)**

Clause 26 amends section 26 by adding a new ground for appeal based upon a decision to grant a licence other than the licence actually applied for, including, for example, by:

- granting a licence authorising the carrying out of the functions of only some of the types of security provider applied for; or
- imposing a condition on the licence.

**Clause 27**                      **Replacement of s 29 (Hearing procedures)**

Clause 27 replaces the existing section 29 with a new section 29 simply to update the procedure for hearing procedures under the Act. These procedures are now conducted in accordance with the *Uniform Civil Procedure Rules 1999*.

**Clause 28**                      **Insertion of new Part 2A**

Clause 28 inserts a new Part 2A introducing the concept of temporary permits. New section 31A allows the holder of a corresponding authority (as defined in the Dictionary in the Act) to carry out in Queensland stated authorised functions for a stated particular event. These functions and particular events are stated in the temporary permit.

A temporary permit ends when the first of the following happens:

- the event for which it is issued ends;

- the time stated in the permit ends.

New section 31C provides the persons eligible for a temporary permit. New section 31C provides what must be included in an application for a temporary permit.

New section 31D provides the parts of the Act that apply to a temporary permit.

New section 31E provides that a temporary permit must state:

- the event for which it is issued; and
- the authorised functions that may be carried out under the temporary permit; and
- if authorised functions of a security firm may be carried out—the security firm services that may be supplied under the temporary permit.

New section 31F provides that the holder of a temporary permit is taken to hold an appropriate licence for carrying out the functions of a security provider stated in the temporary permit. However, if the holder does not comply with the conditions of the temporary permit, the person is not taken to hold an appropriate licence.

If a holder of a temporary permit does not comply with an imposed condition of the temporary permit, because of new section 31D, and the imposed condition is prescribed under a regulation it is an offence.

**Clause 29**                      **Amendment of s 44 (False or misleading documents)**

Clause 29 amends section 44 by removing the words ‘or incomplete’.

**Clause 30**                      **Amendment of s 45 (Obstruction of inspectors)**

Clause 30 moves the definition of ‘obstruct’ from the dictionary and places it within section 45.

**Clause 31**                      **Amendment of s 47 (Identification to be worn by crowd controller)**

Clause 31 updates the words in section 47.

**Clause 32                      Amendment of s 51 (Evidentiary provisions)**

Clause 32 amends section 51 to apply this provision also to a temporary permit.

**Clause 33                      Amendment of s 54 (Regulations)**

Clause 33 amends section 54 by providing that a regulation may prescribe for a refund of fees that have been paid and a code of practice for security providers.

**Clause 34                      Insertion of new Part 5**

Clause 34 inserts new Part 5 containing transitional provisions for the Bill.

Clause 34 inserts new section 55 which clarifies the meaning of bodyguard functions and crowd controller functions for the transitional provisions.

New section 56 provides that a reference to a crowd controller licence authorising the carrying out of bodyguard functions is taken to be a reference to an unrestricted licence authorising the carrying out of bodyguard functions and not authorising the carrying out of crowd controller functions.

New section 56 also confirms that a reference to a crowd controller licence authorising the carrying out of crowd controller functions in an Act or document is taken to be a reference to an unrestricted licence authorising the carrying out of crowd controller functions and not authorising the carrying out of bodyguard functions.

New section 57 provides that this provision applies to a crowd controller licence issued before the commencement of this provision ('the existing licence') authorising a person to carry out bodyguard functions, whether or not the existing licence also authorises the person to carry out crowd controller functions.

To the extent the existing licence authorises the person to carry out bodyguard functions, it is taken to be an unrestricted licence authorising the person to carry out bodyguard functions until its term ends or it is sooner cancelled.

Despite sections 20 and 61, the existing licence can not be renewed to authorise the carrying out of bodyguard functions.

New section 58 provides that section 9 does not apply to a person who is a security adviser or security equipment installer in relation to the functions

of a security adviser or security equipment installer until the end of six weeks after the commencement of this provision.

New section 59 provides that for the application of the penalty in section 9 after the commencement of this provision, an offence committed before the commencement can not be taken into account, even if the conviction for the offence happens after the commencement.

New section 60 applies to an application for a licence made, but not decided, before the commencement of this provision. It confirms that the amending provisions in this Bill as in force immediately after the commencement of this provision apply in relation to the application and a decision or appeal in relation to the application.

If the application is for a crowd controller licence authorising the carrying out of bodyguard functions and the applicant has successfully completed a previously approved training course for carrying out crowd controller functions, the applicant is taken to have successfully completed an approved training course for carrying out bodyguard functions.

However, the Chief Executive is not prevented from imposing a condition on the licence requiring the licensee to undertake further stated training.

In new section 60, 'previously approved training course' means a training course approved, before the commencement of these amending provisions, by the Chief Executive.

New section 61 provides that this provision applies if a licence in force immediately before the commencement of this provision has a condition stated on it. The condition is taken to be an imposed condition.

New section 62 provides that this provision applies to an application for the renewal of a licence made, but not decided, before the commencement of this provision. It confirms that the amending provisions in this Bill as in force immediately after the commencement of this provision apply in relation to the application and a decision or appeal in relation to the application.

New section 63 provides that a proceeding started before the commencement of this provision and pending at the commencement may be continued under this Bill as in force immediately before the commencement.

In new section 63, proceeding means a proceeding under the *Judicial Review Act 1991* in relation to a decision made under the *Security Providers Act 1993* or for an offence against this Act.

**Clause 35**                      **Amendment of schedule (Disqualifying offence provisions under the Criminal Code)**

Clause 35 renumbers provisions in this schedule.

**Clause 36**                      **Insertion of new Schedule 2**

Clause 36 inserts a new schedule 2 for the dictionary.

**Clause 37**                      **Amendment of other Acts**

Clause 37 amends the *Criminal Code* and the *Liquor Act 1992* to update the language with references to the *Security Providers Act 1993*.