

SECURITY INDUSTRY AMENDMENT BILL 2012

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Michael Gallacher.

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [12.37 p.m.]: I move:
That this bill be now read a second time.

The Security Industry Amendment Bill 2012 will achieve significant improvements to the current regulation of the security industry. There has been extensive consultation with industry, and the issues raised are reflected in the reforms contained in this bill. The amendments will enhance the NSW Police Force's regulation of the security industry. Through this bill and associated reforms the fragmentation and lack of coordination identified by the Independent Commission Against Corruption in its Operation Columba will no longer exist. The Independent Commission Against Corruption report demonstrated that more work needs to be done to ensure ongoing compliance with the regulatory regime for the New South Wales security industry. The need for these amendments has grown out of the identification of growing risks surrounding the industry.

In 2009 the Australian Crime Commission [ACC] completed a two-year investigation into the private security industry nationally. The commission found that organised crime groups and outlaw motorcycle gangs have moved into the security industry in all mainland States, and are involved in illegal practices. The evidence of organised crime in the security industry further highlights the need to ensure that regulatory standards are enforced within the industry. The security industry plays a vital role in a wide range of businesses and government agencies throughout New South Wales. There are approximately 4,000 security firms of various sizes operating in the New South Wales security industry across different sectors and occupations. Master licensees range from large multinational companies, such as Chubb Security, to sole traders providing a limited range of services. The conduct of compliance audits on these businesses will be based on risk assessments and intelligence reports gathered and held by the NSW Police Force. The bill supports the conduct of these compliance audits through the insertion in the Act of new part 3B, which deals with enforcement.

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Clause 39 of the Security Industry Regulation 2007 and sections 42 and 42A of the Security Industry Act provide for powers of inspection and seizure for police officers or other authorised persons in relation to inspections of security firms. Currently, the power is aimed at ensuring that compliance can be accessed only by sworn police officers. The bill expands legislative powers of enforcement to encompass civilian staff of police who have been authorised by the Commissioner of Police to exercise the functions of an enforcement officer under the Security Industry Act.

The bill further provides that, for the purposes of conducting compliance auditing or generally administering the legislation at premises at which a security activity is being carried on, no search warrant is required to enter. This aligns with the way compliance auditing is conducted by a range of other New South Wales government agencies. For example, the Gaming and Liquor Administration Act 2007 provides for power of entry without a warrant and powers of inspection and seizure for civilian inspectors. As with similar compliance inspection regimes, the bill limits the power of entry without a warrant to exclude entry into premises or part of premises that are used only for residential purposes. The bill also provides

that entry must take place at a "reasonable time".

In addition to the power of entry without a warrant, the bill provides for application to be made for a search warrant for entry to premises. Search warrants can be applied for in cases where an enforcement officer believes on reasonable grounds that any provision of the Security Industry Act or the regulations is being or has been contravened on any premises. New section 39K of the bill outlines the powers that may be exercised by an enforcement officer following lawful entry to premises. These powers include requiring production of, examining and making copies of and seizing registers, books or other records. New Section 39M provides that civilian enforcement officers will be required to carry identification cards issued by the Commissioner of Police to demonstrate their status and will be required to produce these cards on request.

The provisional licensing scheme was introduced in New South Wales in 2007 to provide a pathway for new persons to enter the manpower sector of the security industry and work under supervision. The scheme was endorsed by the Council of Australian Governments in 2008; however, New South Wales remains to date the only State that has fully implemented such a scheme. The need to provide direct supervision together with the associated compliance costs has led to a widespread reluctance by master licensees to employ provisional licensees. This has motivated many new entrants to obtain interstate security licences and exploit the mutual recognition scheme to bypass the New South Wales provisional licensing scheme. For example, last year 50 per cent of applications for new New South Wales security licences were made under mutual recognition.

Five years of industry and regulator experience indicates that the provisional licensing scheme has not achieved its objectives, and has created more problems than it has solved. A number of stakeholder submissions to me highlighted this as a problem following a forum that I held with the security industry in August 2011. The bill therefore abolishes the scheme by repealing sections 12A and 38B. It is envisaged that this is likely to lead to a significant reduction in the number of mutual recognition applications for licences. A new provision for the grant of conditional class 1 licences is included to ensure that New South Wales continues to meet the Council of Australian Governments agreement to "introduce a provisional, probational or conditional licence in the manpower sector for a duration of not less than six months." The provisional licensing scheme was also used to impose restrictions on new entrants to the armed guarding sector.

While there is a sound argument for abolishing the current provisional licensing scheme there is still a need to maintain a provisional system for armed guards. Therefore, the Firearms Act 1996 is being amended to create a new provisional pistol licence and to make new armed guards subject to supervision and training requirements. Armed guards will be required to have a firearms licence under category H with the genuine reason of "business/employment" under the Firearms Act 1996 in addition to a class 1F security licence. Class 1F applicants will be able to move beyond working in the cash-in-transit companies to work as employees or appropriately trained and supervised volunteers in the area of static guarding of approved premises. The police commissioner will have the approval power to accept or reject an application.

The Commonwealth National Vocational Education and Training Regulator Act 2011 commenced on 1 July 2011. This Act established a national regulator—the Australian Skills Quality Authority [ASQA], which replaced State-based regulators in New South Wales through a referral of powers to the Commonwealth. The Commonwealth Act renders inoperative legislative provisions that support police regulation of security industry training.

This was an unintended consequence as training of the security industry is only one of the many industries to be regulated by the Australian Skills Quality Authority. It is proposed that a declaration as per sections 10 and 11 of the Commonwealth Act be made in relation to security industry training so that the Security Industry Act 1997 powers of the NSW Police Force to oversight registered training organisations [RTOs] in New South Wales may be retained. This will mean that the NSW Police Force can regulate registered training organisations alongside the national regulator. Advice from the Commonwealth indicates that it supports this approach.

The Act currently provides for master licences to be classified into subclasses, with authority conferred to each subclass based on the number of persons carrying on security activities on behalf of the master licensee. New master licence subclasses will be created for businesses employing one to three persons, four to 14 persons and 15 to 49 persons. Subcontracting is a significant problem within the security industry. Currently a business that secures contracts to provide security services and entirely subcontracts that work out is not required to hold a master licence, as the business is not employing any person to carry on security activities. This means that directors, shareholders and managers of the business are not subject to probity checks.

In addition, the subcontractor needs to deliver the security services with a lesser profit margin than would be the case if it was contracted directly to the client, and this in turn leads to problems endemic in the industry of non-compliance, low wages, and labour exploitation. The amendments to section 10 provide that a master licensee's authorisation to supply persons to carry on security activities is irrespective of whether those persons are employees or are provided through subcontracting. Submissions from industry following the August 2011 stakeholder forum were unanimous in the call for stronger measures to regulate subcontracting arrangements. New section 38A of the bill prohibits unauthorised subcontracting by master licensees.

The Act currently provides for restrictions on granting a licence on the basis of criminal and other related history of applicants. The bill strengthens these provisions by amending section 16 so that if a person has ever been found guilty or convicted of a serious offence for which the conviction can never be spent, the Commissioner of Police will have the discretion to refuse the licence application. Industry consultation has revealed the need to address situations where master licensees have one-off spikes in employee numbers during major events. For instance, a company that regularly employs two guards might have to temporarily employ 30 guards for a New Year's Eve event. To address this situation, a provision is included in the bill for master licensees to apply for a temporary permit to exceed their authorised employee numbers.

The bill will also reduce red tape and gain efficiencies in the licensing process, which is of benefit to those working in the industry as well to those regulating it. Under the Act, an application for a licence must be accompanied by two written references. Operational experience indicates that these provisions add significant time and cost to the making and processing of applications while not enhancing the quality or probity checking of applications. Therefore, section 14 (3) (b) will be repealed to remove this requirement. In addition, licensing processes will be streamlined. The bill will amend section 24 to provide for a licence renewal process, which will include the continuation of the authority of the old licence being renewed subject to any further particulars required by the commissioner and with a provision for a penalty for late renewal.

A number of miscellaneous technical improvements that clarify the intent of the Act will also

be implemented by the bill. Section 18 will be amended to extend the power to require fingerprints in connection with a licence application so that palm prints may also be required. This amendment will rectify an anomaly identified in the New South Wales legislation and will amend the Act by inserting "palm print" after "fingerprint" in section 18. The Security Industry Council was established as an advisory body for the then Minister for Police. The council's specific functions are currently outlined in section 43A of the Act. The council has not fully carried out the statutory role envisaged for it. With the police assuming the role of the principal regulatory body, there is no longer a requirement for the Security Industry Council to facilitate co-regulation in the way that was envisaged.

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With the expansion of the Security Licensing and Enforcement Directorate [SLED], there will be a greater capacity to liaise regularly with industry associations and representatives, and ensure that communication and consultation occur. It is proposed that a non-statutory group called the Security Licensing and Enforcement Directorate Advisory Council under the police's State Crime Command be established to provide a forum for the regular exchange of information between the industry and the regulator. The industry has responded positively to that proposal. Therefore, the bill will repeal section 43A to abolish the Security Industry Council. The changes proposed in this bill will further strengthen the regulation of the security industry in New South Wales. I commend the bill to the House.

Debate adjourned on motion by the Hon. Greg Donnelly and set down as an order of the day for a future day.

SECURITY INDUSTRY AMENDMENT BILL 2012

Second Reading

Debate resumed from 13 June 2012.

The Hon. STEVE WHAN [3.56 p.m.]: The Opposition supports the Security Industry Amendment Bill 2012 because it follows a review of the Security Industry Act commenced by Mr Michael Daley when he was Minister for Police. It has been a long time coming, although I acknowledge that it is a very complex area. The private security industry has seen quite a lot of legislation and reform over the last few years and is a significant industry in terms of the number of people involved and the potential for things to go wrong. The security industry employs tens of thousands of people, often casually, for the purposes of crowd control, protection of people and property, and for many other reasons. It is an industry which has grown in an ad hoc way. It has not kept pace with the risks inherent in the provision of private security or the growth in size of the industry. This bill seeks to bring the industry and the licensing of its participants under the control and direction of the Commissioner of Police.

I will now highlight a number of elements of the bill: expanding the range of powers that can be exercised by police officers under the current Act; introducing a range of new licensing requirements, including training and assessment; abolishing the current Security Industry Council, which I understand is controversial amongst some; introducing a master licence with preclusions to subcontracting tasks unless specific conditions are met; greater regulation of employment; and organisations providing training to the security industry being subject to new laws. There is an expanded list of mandatory and discretionary grounds on which the commissioner may refuse to grant a licence. The Commissioner of Police will be able to acquire palm prints of licence holders as well as fingerprints, which is the current case, and the bill proposes the introduction of a business or employment firearms licence for approved employees in approved employment.

Occasionally, this industry raises controversy and my memory or understanding of the reason that a review of the Act was commenced by former Minister Daley is that there were concerns about outlaw motorcycle group members infiltrating the security industry and using licensed

premises, such as nightclubs, to distribute illicit drugs. That would obviously be of great concern and it is something the Government is right to try to keep on top of. In this industry, as in many others, there are always people trying to beat the latest regulations. It could probably never be said that the job is done by getting legislation in place and making sure that the industry is operating as effectively as possible. The security industry is challenged with ensuring that the good people who work in it—and most are good people—are not penalised by regulations aimed at keeping the crooks out. I expect that the need to stay on top of some of these issues will continue.

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I turn now to the abolition of provisional licensing referred to in the legislation and commented on by the Minister in his second reading speech. This will mean a reduction in the number of people applying for mutual recognition with interstate qualifications. As a resident of Queanbeyan I am in contact with a number of security guards who work both in Queanbeyan and the Australian Capital Territory.

Pursuant to sessional orders business interrupted at 4.00 p.m. for questions.

Item of business set down as an order of the day for a later hour.

Debate resumed from an earlier hour.

The Hon. STEVE WHAN [5.09 p.m.]: When question time interrupted what I was saying earlier I was about to ask the Minister about issues of cross-border recognition of security guards. I note that the Minister's second reading speech and the explanation of the bill refer to a move to remove provisional licensing, and that is expected to significantly reduce the number of people who apply for mutual recognition of interstate licences. I understand the practical reason for doing this: the provisional licensing system was impractical and found to be a disincentive to people entering the industry; therefore, people were getting their qualifications in another State and asking for mutual recognition.

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As I am a resident of Queanbeyan a number of local security guards have spoken to me about the difficulties in having their qualifications recognised across the New South Wales and Australian Capital Territory border. I would be worried if the bill were to make it more difficult for them. It would presumably also apply to those living near the New South Wales and Queensland border, as well as those near the New South Wales and Victorian border, but I have not spoken to any security guards in those areas. I ask that the Minister address the ease of that process for people in the security industry in his speech in reply.

The Legislation Review Committee recently considered the bill and raised a number of issues about trespass of personal rights and liberties. I agree with the committee's conclusion that although there were areas of retrospectivity in the presumption of innocence and procedural fairness, as well as powers of entry without warrant, sometimes there is justification for some trespass of personal rights and liberties when dealing with complex issues such as ensuring that the wrong people are not employed in a particular industry. As I said, the Opposition agrees with the legislation. The security industry is a difficult one. It is largely made up of people who do the right thing but, unfortunately, in the past some less desirable people have entered it—the Government must keep on top of that. I also send my condolences to the family and friends of Hans Schulz, who was tragically killed over the weekend at Broadway. His death is a reminder of how dangerous this industry can be and how important it is for our laws to provide protection for those who work in it.

Finally, I turn to the area of the bill that deals with firearm permits. The schedule to the bill essentially says that people will be required to have

appropriate training provided by their employers and that the commissioner will approve that training. I am confident that the commissioner will approve comprehensive training to make people safe. However, I ask the Minister in his speech in reply to elaborate on what that training will be and what scrutiny employers will be put through to ensure that the training is accredited and meets the level of responsibility expected of someone carrying a pistol in a public place. The Opposition supports the bill.

The Hon. DAVID CLARKE (Parliamentary Secretary) [5.13 p.m.]: I speak in support of the Security Industry Amendment Bill 2012. The security industry makes a significant contribution to keeping New South Wales safe and secure and the Government wants to acknowledge that contribution. Indeed, over the past few years particular companies have been at the forefront of developing raised standards of practice in the industry. However, the Government has a new vision for the industry which will enhance and improve it. The Government wants to see New South Wales headed towards a time when police and private security cooperation is well established and effectively utilised regularly; when the overall quality and calibre of the security industry, as an industry of choice with high-quality personnel, is lifted; when compliant firms and licensees are rewarded and good practice is recognised; when a regulatory model is adapted to emerging risks and an evolving industry; and when a dynamic and highly productive working relationship exists between the regulator and the industry.

The Government wants to recognise firms that comply and to reward good practice; however, it cannot get to that point unless the entrenched and extensive problems of the industry are substantially addressed first. It is the end of the era of co-regulation in New South Wales. The Security Licensing and Enforcement Directorate [SLED] of the NSW Police Force will be taking on proactive compliance and auditing in relation to the activities of master licensees and the eligibility of individual licensees, as well as the operations of registered training organisations that deliver security training. Mandatory membership of industry associations will also be removed.

The good news for the industry is that proactive enforcement and auditing by the Security Licensing and Enforcement Directorate will level the playing field. Compliant firms will be able to compete without compromising their standards. The directorate will educate industry and users of security services about their regulatory requirements and it will ensure compliance with those requirements. Enforcement action will be proportionate to the non-compliance and will consider the seriousness of the non-compliance,

as well as other factors. The audit process will be explained to the licensee and an audit report will be provided, identifying improvement actions if required. Processes will be transparent.

The risk-based compliance strategies and graduated and proportionate response to non-compliance that will be used by the Security Licensing and Enforcement Directorate are aligned to industry best practice. The regulator will have a greater capacity to engage with industry in a variety of ways. Industry concerns will be addressed and clear and transparent procedures will be put in place so that staff and officers of the directorate are not at risk when conducting compliance and auditing investigations, particularly in locations such as high-security cash-processing centres. Where there is no risk in telling a master licensee that they are to be audited they will be notified so that they may be prepared for it.

Industry has long advocated dealing with the problems associated with the provisional licensing scheme, and it will be abolished. The Government has listened and is responding. The Government intends to introduce a conditional class 1 licence but there will be no more P-plates. In the past master licensees have had onerous direct supervision requirements placed on them when employing provisional licensees: they have not had incentives to employ provisional licensees. Unfortunately, though the intent behind the scheme was worthwhile in practice it created more problems than it solved. The practice of sub-contracting has plagued the industry and the Government will address it. The proposed measures for the disclosure of subcontracting arrangements are workable, practical and enforceable.

Industry has raised the need for flexibility. It has asked how it could respond to one-off spikes in employee numbers. For instance, what would happen if a firm wanted to employ 30 guards temporarily on New Year's Eve? Does that trigger the need to hold a higher category of master licence for that instance? The Government will introduce a temporary excess provision service permit to address this. This will be a quick, easy online process to allow industry to get a permit to exceed authorised employee numbers for a specified duration. Industry has also said that processing times need to improve and that greater efficiency is needed. The Government will introduce a licence renewal process. It will be distinct from that for a first-time licence application. It will be quicker and more efficient. The Government has responded to the concerns of both the Independent Commission Against Corruption and the industry to introduce changes to make the industry safer, more professional and more effective. I commend

the bill to the House.

Reverend the Hon. FRED NILE [5.18 p.m.]: The Christian Democratic Party supports the Security Industry Amendment Bill 2012. The bill amends the Security Industry Act 1997 to make further provision for the licensing and regulation of persons in the security industry. The Independent Commission Against Corruption report on Operation Columba demonstrates that more work needs to be done to ensure ongoing compliance with the regulatory regime for the security industry. The bill will help implement the findings of the Independent Commission Against Corruption that the Commissioner of Police should assume responsibility for all integrity-related functions and that compliance, inspection and review processes should be expanded and improved upon. While the Independent Commission Against Corruption findings and recommendations related to security industry training issues, the bill will provide changes to other aspects of the security industry also. The industry certainly needs to be changed. There have been many reports that, because of laxity in the security industry, biker gangs have been able to infiltrate the industry. Therefore, there is a complete breakdown, with criminals supposedly providing security.

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There have also been reports of large numbers of guns being stolen from some security companies. That raises the question of whether such robberies are a way of providing modern pistols for use in organised criminal activities. Therefore it is important that the security industry regulations are tighter than they have been and are strictly enforced. This will happen with the powers being given to the Commissioner of Police. The bill will also reduce red tape so that the NSW Police Force can process applications more quickly, conduct education campaigns and enhance customer service. Obviously many people engaged in the security industry do a good job and are trustworthy. Sadly, in recent years, while carrying out their duties a number of security guards paid with their lives when they were been killed by organised criminals. Both male and female security officers have been shot while carrying out their duties.

As members know, only on Sunday we had the tragic case of a security guard who died after he was allegedly attacked by a group who broke into a Sydney fast food outlet. Hans Schulz, aged 68 years, suffered multiple punches to the head and a brutal kick to the chest when he allegedly witnessed two women and a man break into the Wendy's store at Broadway Shopping Centre at about 8.15 p.m. He went into cardiac arrest, probably because of that kick, and died a short time later at Royal Prince

Alfred Hospital. He was aged 68 years, so it seems there is no age limit for security guards. At 68 year he perhaps would not have been as fit or as active in carrying out his duties as a younger security officer. It is a tragedy that he lost his life. I express condolences to members of his family.

Mr DAVID SHOEBRIDGE [5.22 p.m.]: On behalf of The Greens I indicate our support for the Security Industry Amendment Bill 2012. Towards the end of 2010 a large posse of security industry representatives sought to consult with crossbench members and other parliamentarians because they were concerned that the former Government intended to reform the Security Industry Act: effectively, to get rid of self-regulation and put tighter regulation in place. Unfortunately, the previous Government did not move in that regard. One of the first questions I asked the current Minister for Police and Emergency Services was what steps his Government would take to get rid of self-regulation in the security industry and bring the industry under a much closer form of regulation. At that time the Minister said that it was one of his priorities and that he was working on draft legislation to do that. I am pleased that this bill is that legislation. This legislation properly provides more detailed regulation of the security industry and indeed brings the security industry under the direct oversight of the NSW Police Force.

Unlike the tattoo industry, the security industry, by reason of statute and its very nature, has privileged access to firearms and secure locations, and it plays an extremely important role in providing some elements of public law and order, particularly around licensed premises. Indeed, a long-running concern for many people in Sydney is the extent to which the security industry effectively is the night-time police force for areas such as Kings Cross. There have been many, many reports that much of the industry—not all of it and, indeed, not some of the big corporate players—has a far too comfortable connection with organised criminal elements. Indeed, there is concern that a number of moderate size security industry firms in New South Wales have close and enduring ties with organised crime. That is totally unacceptable.

This bill goes some way to providing a check on the security industry by getting rid of self-regulation and having much closer oversight of the industry by the NSW Police Force. For the reasons I said, we support that approach in the bill. Schedule 1 to the bill creates new powers that police officers can exercise under the Security Industry Act 1997. That means that enforcement officers, not all of who are uniform police but some of who can be specifically delegated civil servants in the police, will have powers

of inspection and seizure. The legislation also confers a power to enter premises where a security activity is being undertaken at any reasonable time without a warrant. To exercise these powers enforcement officers will be issued with identification cards which they will have to produce when exercising these functions, and they will need to have a reasonable suspicion that a breach of the Act or the regulations is occurring at the premises.

As I said, we strongly support legislation that holds the security industry to account because of the nature of the industry. While I objected to these powers being given in relation to the tattooing industry, in an industry that has firearms on the premises and access to revolvers and semi-automatic hand weapons—as we know, they are the weapons of choice for organised crime—having effectively spot inspection powers and supervision powers is a reasonable exercise of police power. Also, under schedule 1 provisional licensing is abolished except for armed guards, who will still go through a provisional phase per the requirements of the Firearms Act 1996. A class 1 licence will be able to be granted to a person who has not at least in the three years before the application had such a licence. It will be a condition of the issue of such a licence that the holder needs to complete training and assessment as defined by the commissioner within six months.

I echo the observation made by the Hon. Steve Whan about the extent to which there will be public notification about those requirements from the Commissioner of Police. I will be interested to hear the Minister's view about the requirements that the commissioner intends to put in place in that regard. The legislation provides for a licence renewal scheme. An applicant must give notice no earlier than eight weeks before expiration of their previous licence, then they will have to go through the licence application requirements to renew their licence. The bill clarifies that the commissioner may consider criminal intelligence reports or other criminal information when considering whether a licence should be revoked. Reasons can be withheld if it is determined that disclosure would disclose the existence or content of such a report or information.

We objected to these powers in relation to the tattoo industry but there are legitimate reasons for having such provisions in oversight of the security industry. These people have privileged access to weapons, and there is a known connection with organised crime. People in the security industry are often in a privileged position in terms of restoring order and, indeed, exercising force against citizens. If there are good and valid concerns that

they have been involved in organised crime or serious criminal activity then it is reasonable for the police to take that into account when considering these applications. The bill excludes the operation of the Federal National Vocational Education and Training Regulator Act 2011. That will ensure that the NSW Police Force continues to be the regulator for security industry registered training organisations. Of course, that makes sense. We do not want security training to be overlooked by the education authorities, as I understand happens in other States. If we are to have any rigour in the training the Commissioner of Police must be satisfied with the training provided before these people are let loose on the streets of New South Wales with firearms.

Further changes are made to master licence provisions, which clarify that the number of persons who can be supervised on a master licence are to be considered per day, rather than overall, and that contractors and subcontractors are included in this count. That sounds like a fairly modest and technical provision but it is important to ensure that the security industry does not get around the existing controls by subcontracting out and therefore avoiding the head count restrictions on a master licence.

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As the Parliamentary Secretary indicated, temporary access permits can be granted by the commissioner upon request. The bill completely abolishes the Security Industry Council, which will be replaced with a non-statutory advisory body for police to work with. That is a step forward. The Security Industry Council was effectively an industry lobby group and was largely responsible for the somewhat lax self-regulation that we have seen to date. Of course, the commissioner should consult with industry but giving it a privileged statutory role is inappropriate. The principal oversight role should be with the Government.

Changes are made to what is considered to be a security activist, which removes watching equipment from the definition of "security equipment". There are also amendments to the Firearms Act to introduce a new category H pistol licence subject to the controls of the Firearms Act upon which I will ask the Minister to clarify in reply. The background is that the Independent Commission Against Corruption report Operation Colomba was delivered on 9 December 2009. The report inquired into registered training organisation and corruption in the provision and certification of security industry training.

The report resulted in corrupt conduct findings against 10 people and a recommendation that prosecution of eight people be considered for

criminal offences and two security licences be revoked. A number of systemic issues were identified and recommendations made to address identified regulatory problems in the security training industry. These apply to the broader security industry as well, well beyond just the training aspects. Relevant recommendations included recommendation 1, which states:

In relation to security training, assessment and certification, the NSW Commissioner of Police should assume ultimate responsibility for all integrity-related functions, including corruption prevention, corruption risk management, fraud and corruption investigation and detection.

That recommendation has been implemented; in fact, this bill goes beyond that in giving the Commissioner of Police basic control over the security training. Recommendation 2 states:

The compliance, inspection and data review processes of the Security Industry Registry ... should be expanded and improved to give the SIR the capacity to detect fraudulent or inadequate training practices by registered training organisations.

Recommendation 3 states:

The SIR should be given sufficient, dedicated staffing and other resources to implement Recommendations 1 and 2 ...

I ask the Minister to respond to whether the additional resourcing for the security industry register is intended to be part of the package. What is the Government's intention with respect to ensuring that the compliance inspection review processes that the Independent Commission Against Corruption recognised were so important will actually be resourced and undertaken? Recommendation 8 states:

The SIR should conduct a comprehensive corruption risk assessment of the corruption risks present in security training and licensing.

I assume that will be a significant part in the commissioner's determination as to training and the like. Recommendation 12 states:

The NSW Police Force and the Department of Education and Training should have internal reporting mechanisms in place that ensure that principal officers are made aware of and report matters within the jurisdiction of the Commission under section 11 of the Independent Commission Against Corruption Act 1988 at the earliest possible time.

As I noted before, The Greens strongly support any attempts to make the security industry in New South Wales more accountable and more

transparent to the people of this State. Over the years there have been serious and consistent concerns about the operation of the security industry in New South Wales. Particular concerns have been raised about the control of the industry in Kings Cross and the criminal elements that have infiltrated there, although this is not limited to Kings Cross; there are a number of hotspots throughout metropolitan Sydney and across the State where genuine concerns have been raised about the integrity of companies and the membership of the security industry. I believe this bill will go some significant way to having further oversight.

In addition, research from agencies such as the Bureau of Crime Statistics and Research provide empirical support for concerns about this industry. In 2011 statistics released by the Bureau of Crime Statistics and Research showed that one in eight assaults in the State's clubs and pubs were in fact committed by security guards. That is a remarkable figure. One in eight reported assaults are not being committed by patrons but by the security guards who are sent in notionally to provide security and make the venues safer. The Australian Crime Commission noted:

The nature of the (Security) industry—with its access to firearms, licensed premises, major events and a range of public and private assets—provides both an incentive and an opportunity for organised crime groups to infiltrate and exploit its activities and operations.

The changes proposed seem a reasonable way to minimise at least some of the potential for corruption and criminality associated with the security industry. However, The Greens will keep a close eye on how the police undertake this task. On a number of occasions I have spoken of The Greens' concerns about the internal oversight mechanisms in the NSW Police Force and, indeed, about the external oversight of complaints regarding the NSW Police Force. The NSW Police Force is now regulating the security industry. With those known corruption risks within the security industry, it is even more important to have a well-funded, independent corruption watchdog for the NSW Police Force as well.

In the recent budget funding for the Police Integrity Commission went backwards, which was a negative step, and funding for the Independent Commission Against Corruption has been trimmed. Although we acknowledge the commonsense and positive elements of bringing the security industry within the ambit of police oversight, that will not be the end of the matter. We need to ensure that those watching the security industry are the subject of clear, rigorous and independent oversight. Also, they need to be properly funded and they are not. The oversight bodies of

the NSW Police Force need to be given a broader statutory remit so that they can adequately perform their roles. I make those observations in the context of what I believe is an advance with this Government bill, which lives up to a commitment the Minister gave some 12 months ago and which will be a step forward for the security industry and the people of New South Wales.

The Hon. CHARLIE LYNN (Parliamentary Secretary) [5.36 p.m.]: I support the Security Industry Amendment Bill 2012 as it will achieve significant improvements to the current regulation of the security industry. The amendments will enhance the NSW Police Force's regulation of the security industry. Through this bill and associated reforms the fragmentation and lack of coordination identified by the Independent Commission Against Corruption in its Operation Columba will no longer exist. The Independent Commission Against Corruption report demonstrated that more work needs to be done to ensure ongoing compliance with the regulatory regime for the New South Wales security industry. The need for these amendments has grown out of the identification of growing risks surrounding the industry.

As the Minister for Police mentioned, in 2009 the Australian Crime Commission completed a two-year investigation into the private security industry nationally. The commission found that organised crime groups and outlaw motorcycle gangs have moved into the security industry in all mainland States and are involved in illegal practices. The evidence of organised crime in the security industry further highlights the need to ensure that regulatory standards are enforced within the industry. The security industry plays a vital role in a wide range of businesses and government agencies throughout New South Wales. There are approximately 4,000 security firms of various sizes operating in the New South Wales security industry across different sectors and occupations. Master licensees range from large multinational companies, such as Chubb Security, to sole traders providing a limited range of services.

The conduct of compliance audits on these businesses will be based on risk assessments and intelligence reports gathered and held by the NSW Police Force. The bill supports the conduct of these compliance audits through the insertion in the Act of new part 3B, which deals with enforcement. Clause 39 of the Security Industry Regulation 2007 and sections 42 and 42A of the Security Industry Act provide for powers of inspection and seizure by police officers or other authorised persons in relation to inspections of security firms. Currently the power is aimed at

ensuring that compliance can be accessed only by sworn police officers. The bill expands legislative powers of enforcement to encompass civilian staff of police who have been authorised by the Commissioner of Police to exercise the functions of an enforcement officer under the Security Industry Act.

The bill further provides that for the purposes of conducting compliance auditing or generally administering the legislation at premises at which a security activity is being carried on no search warrant is required to enter. This aligns with the way compliance auditing is conducted by a range of other New South Wales government agencies. For example, the Gaming and Liquor Administration Act 2007 provides for power of entry without a warrant and powers of inspection and seizure for civilian inspectors. As with similar compliance inspection regimes, the bill limits the power of entry without a warrant to exclude entry into premises or part of premises that are used only for residential purposes. The bill also provides that entry must take place at a reasonable time.

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In addition to the power of entry without a warrant, the bill provides for application to be made for a search warrant for entry to premises. Search warrants can be applied for in cases where an enforcement officer believes on reasonable grounds that any provision of the Security Industry Act or the regulations is being or has been contravened on any premises. New section 39K of the bill outlines the powers that may be exercised by an enforcement officer following lawful entry to premises. These powers include requiring production of, examining and making copies of and seizing registers, books or other records. New section 39M provides that civilian enforcement officers will be required to carry identification cards issued by the Commissioner of Police to demonstrate their status and will be required to produce these cards on request.

The provisional licensing scheme was introduced in New South Wales in 2007 to provide a pathway for new persons to enter the manpower sector of the security industry and work under supervision. The scheme was endorsed by the Council of Australian Governments in 2008; however, to date New South Wales remains the only State that has fully implemented such a scheme. The need to provide direct supervision together with the associated compliance costs has led to a widespread reluctance by master licensees to employ provisional licensees. This has motivated many new entrants to obtain interstate security licences and exploit the mutual recognition scheme to bypass the New South Wales provisional licensing scheme. For example, last year 50 per cent of applications for new New

South Wales security licences were made under mutual recognition.

Five years of industry and regulator experience indicates that the provisional licensing scheme has not achieved its objectives, and has created more problems than it has solved. A number of stakeholder submissions highlighted this as a problem following a forum that the Minister for Police held with the security industry in August 2011. The bill therefore abolishes the scheme by repealing sections 12A and 38B. It is envisaged that this is likely to lead to a significant reduction in the number of mutual recognition applications for licences. A new provision for the grant of conditional class 1 licences is included to ensure that New South Wales continues to meet the Council of Australian Governments agreement to "introduce a provisional, probational or conditional licence in the manpower sector for a duration of not less than six months". The provisional licensing scheme was also used to impose restrictions on new entrants to the armed guarding sector.

While there is a sound argument for abolishing the current provisional licensing scheme there is still a need to maintain a provisional system for armed guards. Therefore, the Firearms Act 1996 is being amended to create a new provisional pistol licence and to make new armed guards subject to supervision and training requirements. Armed guards will be required to have a firearms licence under category H with the genuine reason of "business/employment" under the Firearms Act 1996, in addition to a class 1F security licence. Class 1F applicants will be able to move beyond working in the cash-in-transit companies to work as employees or appropriately trained and supervised volunteers in the area of static guarding of approved premises. The Commissioner of Police will have the approval power to accept or reject an application.

The Commonwealth National Vocational Education and Training Regulator Act 2011 commenced on 1 July 2011. This Act established a national regulator—the Australian Skills Quality Authority—which replaced State-based regulators in New South Wales through a referral of powers to the Commonwealth. The Commonwealth Act renders inoperative legislative provisions that support police regulation of security industry training. This was an unintended consequence as training of the security industry is only one of the many industries to be regulated by the Australian Skills Quality Authority. It is proposed that a declaration as per sections 10 and 11 of the Commonwealth Act be made in relation to security industry training so that the Security Industry Act 1997 powers of the New South Wales Police Force to oversight registered training organisations in New South Wales

may be retained. This will mean that the New South Wales Police Force can regulate registered training organisations alongside the national regulator. Advice from the Commonwealth indicates that it supports this approach.

The Act currently provides for master licences to be classified into subclasses, with authority conferred on each subclass based on the number of persons carrying on security activities on behalf of the master licensee. New master licence subclasses will be created for businesses employing one to three persons, four to 14 persons and 15 to 49 persons. Subcontracting is a significant problem within the security industry. Currently a business that secures contracts to provide security services and entirely subcontracts that work out is not required to hold a master licence, as the business is not employing any person to carry on security activities. This means that directors, shareholders and managers of the business are not subject to probity checks.

In addition, the subcontractor needs to deliver the security services with a lesser profit margin than would be the case if it was contracted directly to the client, and this in turn leads to problems endemic in the industry of non-compliance, low wages and labour exploitation. The amendments to section 10 provide that a master licensee's authorisation to supply persons to carry on security activities is irrespective of whether those persons are employees or are provided through subcontracting. The new section 38A of the bill prohibits unauthorised subcontracting by master licensees.

The Act currently provides for restrictions on granting a licence on the basis of criminal and other related history of applicants. The bill strengthens these provisions by amending section 16 so that if a person has ever been found guilty or convicted of a serious offence for which the conviction can never be spent, the Commissioner of Police will have the discretion to refuse the licence application. Industry consultation has revealed the need to address situations where master licensees have one-off spikes in employee numbers during major events. For instance, a company that regularly employs two guards might have to temporarily employ 30 guards for a New Year's Eve event. To address this situation, a provision is included in the bill for master licensees to apply for a temporary permit to exceed their authorised employee numbers.

The bill will also reduce red tape and gain efficiencies in the licensing process, which is of benefit to those working in the industry as well to those regulating it. Under the Act, an application for a licence must be

accompanied by two written references. Operational experience indicates that these provisions add significant time and cost to the making and processing of applications while not enhancing the quality or probity checking of applications. Therefore, section 14 (3) (b) will be repealed to remove this requirement. In addition, licensing processes will be streamlined. The bill will amend section 24 to provide for a licence renewal process, which will include the continuation of the authority of the old licence being renewed subject to any further particulars required by the commissioner and with a provision for a penalty for late renewal.

A number of miscellaneous technical improvements that clarify the intent of the Act will be implemented by the bill. Section 18 will be amended to extend the power to require fingerprints in connection with a licence application so that palm prints may also be required. This amendment will rectify an anomaly identified in the New South Wales legislation and will amend the Act by inserting "palm print" after "fingerprint" in section 18. The Security Industry Council was established as an advisory body for the then Minister for Police. The council's specific functions are currently outlined in section 43A of the Act. The council has not fully carried out the statutory role envisaged for it. With the police assuming the role of the principal regulatory body, there is no longer a requirement for the Security Industry Council to facilitate co-regulation in the way that was envisaged.

With the expansion of the Security Licensing and Enforcement Directorate there will be a greater capacity to liaise regularly with industry associations and representatives, and ensure that communication and consultation occur. It is proposed that a non-statutory group called the Security Licensing and Enforcement Directorate Advisory Council under the police's State Crime Command be established to provide a forum for the regular exchange of information between the industry and the regulator. Therefore, the bill will repeal section 43A to abolish the Security Industry Council. The changes proposed in this bill will further strengthen the regulation of the security industry in New South Wales. I congratulate the Minister and commend the bill to the House.

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [5.47 p.m.], in reply: I thank all honourable members who have participated in this debate: the Parliamentary Secretary, David Clarke, my colleague the Hon. Charlie Lynn, the Hon. Steve Whan, Reverend the Hon. Fred Nile and Mr David Shoebridge. The thing I have drawn most confidence from in the context of the debate is that it would appear from

the encouraging tenor of the contributions that all sides recognise the importance of the security industry and the collective genuine need for this House to ensure that this industry continues to meet the community's high levels of expectation and that we improve the public perception of the industry. There is no doubt that the security industry will continue to grow. I am hopeful that what we are doing today will ensure that with that growth comes a level of confidence among the public and within the industry itself.

I am sure many members have spoken to people who do crowd control work or armed guard work, and to the proprietors of security firms and even locksmiths. People involved in various aspects of the industry are proud of their industry. They realise there are problems within the industry. Many of them feel helpless and unable to address some of those problems. From the conversations I have had with them over many years—indeed in another occupation before coming into Parliament and working closely with the security industry—I know that these people have invested their livelihoods in the industry and want to offer a good quality product to the people of New South Wales. I am confident that this Government is taking significant steps to protect this industry and its reputation into the future.

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The Hon. Steve Whan referred to mutual recognition. In July 2008 the Council of Australian Governments agreed to harmonise licensing standards in the manpower sector of the security industry across all jurisdictions by 1 January 2010. This is referred to as stage one of the 2008 Council of Australian Governments agreement on the security industry and was designed to arrest misuse of the mutual recognition scheme to circumvent New South Wales licensing requirements. The implementation of the agreed standards by some jurisdictions has been considerably delayed.

New South Wales has continued to develop proposed solutions and has raised concerns with the Commonwealth and other jurisdictions regarding the ongoing delays in implementing the Council of Australian Governments agreement. Things are starting to change for the better. New South Wales and Western Australia implemented stage one of the agreement several years ago. More recently, Victoria and Tasmania amended their legislation in 2011 to implement stage one. South Australia expects its amendments to commence by the end of 2012. I understand that the Northern Territory is finalising its legislation but does not expect it to be introduced until 2013. The Australian Capital Territory has tightened its requirements for licence applicants to prove a link to an Australian Capital Territory based employer.

The main jurisdiction that is continuing to cause problems in New South Wales is sadly Queensland. While Queensland has implemented much of the stage one agreement, the main outstanding issue is it has not yet established training as a licensable activity under its security industry legislation. Until all jurisdictions have implemented the Council of Australian Governments agreement from 2008, this problem will not be fully resolved. Hence New South Wales continues to do all it can to encourage remaining jurisdictions to implement the Council of Australian Governments harmonisation agreement.

A number of questions were raised about training. The Government has listened to industry throughout the extensive consultation process. It understands the required levels of direct supervision to employed provisional licensees, together with the associated compliance costs, has led to a widespread reluctance by master licensees to employ provisional licensees. This reluctance has motivated many new entrants to obtain interstate security licences and exploit the mutual recognition scheme, as I indicated earlier. The Government recognises that the provisional licensing scheme has created more problems than it has solved.

The bill will, therefore, abolish the scheme by repealing sections 12A and 38B. It will also delete numerous references to the scheme throughout the Act. It is envisaged that this is likely to lead to a significant reduction in the number of mutual recognition applications for licences. The new conditional class 1 licences will not be provisional licences by another name. The Government is introducing this provision to ensure that New South Wales continues to meet the 2008 Council of Australian Government's agreement to introduce a provisional, probational or conditional licence in the manpower sector for a duration of not less than six months. The types of conditions that may be attached to conditional licences relate to undertaking and completing training or assessment within six months of being granted a licence.

In relation to the new armed guard licence, the provisional licensing scheme, which is being abolished, was used to impose restrictions on new entrants to the armed guarding sector. While there is a sound argument for abolishing the current provisional licensing scheme, there is still a need to maintain the supervision and training requirements for new armed guard licensees. Therefore, the bill provides that supervision and training conditions be attached to the approval for a firearms licence that an armed guard licensee must have in addition to the class 1F security licence.

Section 16C outlines special conditions for class P1 F armed guard licensees, such as their training and supervision requirements. This provision ensures that new entrants to the security industry who are authorised to carry a firearm are appropriately monitored for 12 months prior to being allowed an unrestricted licence. Security industry licence applicants will not be able to perform the duties of an armed guard until they have obtained the requisite firearms licence. The granting of the firearms licence will have probationary conditions attached to it.

The training and supervision requirements for a provisional pistol licence are no different to the current requirements for class P1F licences. The proposed changes will allow class P1F applicants to move beyond working in cash in transit companies to those who may choose to work as employees or appropriately trained and supervised volunteers in the area of static guarding of approved premises. As the carriage and use of a firearm by a class P1F licensee is tied to their employer relationship—that is, they obtain a firearm licence for the reason of business or employment—conditions for the supervision and training of new security licensees authorised to carry a firearm will now be specified in the Firearms Act 1996. Class P1F armed guard licensees must also hold a valid licence under the Security Industry Act 1997. There is also ongoing work at a national level focussing on appropriate training standards for the security industry and raising the standards in other jurisdictions. The NSW Police Force will work with the national regulator, Australian Skills Quality Authority, to regulate registered training organisations.

In relation to an aspect raised by Mr David Shoebridge, there will be more detail in regulations regarding training and plenty of notice. We need employers to be aware of the new requirements and how new entrants access them. I thank all members who participated in this debate. I also extend my thanks to the industry, some representatives of which are listening to this debate. The industry provides a valuable service to the people of New South Wales. It is of utmost importance to continue to work with them to ensure any problems in the industry are addressed by the Government. The Government wants to ensure that the industry and its needs are met at a high standard, as it would expect. I thank them for their patience as this legislation has been a long time in the making. The Government wanted to get the legislation right.

Mr David Shoebridge asked a question in relation to staffing. The State Crime Command will oversight the Security Licensing and Enforcement Directorate, which will be funded to have a total of 73 full-time equivalent

staff. This is an additional 33 positions to deliver the new functions of compliance audits and investigations to the old Security Industry Registry, which existed at the time of the Independent Commission Against Corruption's Operation Columba. Not all staff of the Security Licensing and Enforcement Directorate will be enforcement officers. The full complement of 73 will enable the directorate to meet its current legislative and regulatory functions, which focus on licence processing and adjudication, as well as its expanded compliance functions recommended in the Independent Commission Against Corruption report into Operation Columba and enacted by this bill. The compliance and enforcement team will have a manager, eight senior compliance and enforcement officers, and four compliance and enforcement officers.

In addition to the compliance and enforcement team, the directorate has teams for customer relations, licence adjudication and appeals, processing, assessments, including corruption prevention—something of importance to all members of this House and for the industry—and complaints management. It also has teams for approved training and a dedicated legal officer for security industry related matters. The team will be working collectively with police who specialise in the licensing area. When the security industry deals with crowd control at licensed venues police are often their first point of contact. Therefore, it is important to have police with specialised skills working with personnel in the Security Licensing and Enforcement Directorate. They will be involved in the compliance and regulation of this industry. I am happy with this legislation as it is a significant outcome. I congratulate the industry on playing such a positive role to ensure its future.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Leave granted to proceed to the third reading of the bill forthwith.

Third Reading

Motion by the Hon. Michael Gallacher agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.