



Queensland Parliamentary Library

The Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003 (Qld): Disqualification of Security Providers who Impersonate Police Officers

A consequence of the rapid growth of the private security industry, together with the characteristics of the uniforms of some security providers, is a mistaken impression at times amongst members of the public that the security providers may be police officers.

The Police Service Administration Act 1990 (Qld) contains offences for impersonating police officers. The Security Providers Regulation 1995 (Qld) bans the wearing of chequerboard hats by security providers and requires crowd controllers to wear certain identification.

Part 15 of the Tourism, Racing and Fair Trading Bill 2003 (Qld) will include the personation offences under the Police Service Administration Act 1990 as 'disqualifying offences' for applicants for security providers' licenses, and for current licensees.

Renee Easten and Renee Giskes

Research Brief No 2003/29

Queensland Parliamentary Library
Research Publications and Resources Section

Ms Karen Sampford, Director	(07) 3406 7116
Ms Nicolee Dixon, Senior Parliamentary Research Officer	(07) 3406 7409
Ms Renèe Easten, Parliamentary Research Officer	(07) 3406 7241

© Queensland Parliamentary Library, 2003

ISSN 1443-7902

ISBN 0 7345 2876 0

OCTOBER 2003

Copyright protects this publication. Except for purposes permitted by the Copyright Act 1968, reproduction by whatever means is prohibited, other than by Members of the Queensland Parliament in the course of their official duties, without the prior written permission of the Clerk of the Parliament on behalf of the Parliament of Queensland.

Inquiries should be addressed to:

Director, Research Publications & Resources

Queensland Parliamentary Library

Parliament House

George Street, Brisbane QLD 4000

Ms Karen Sampford. (Tel: 07 3406 7116)

Email: Karen.Sampford@parliament.qld.gov.au

Information about Research Publications can be found on the Internet at:

<http://www.parliament.qld.gov.au/Parlib/Publications/publications.htm>

CONTENTS

1	INTRODUCTION.....	1
2	BACKGROUND TO THE REFORM.....	2
2.1	BEATTIE GOVERNMENT POLICY	2
2.2	POLICE CONCERNS - QUEENSLAND POLICE UNION COMMENTS	2
3	CURRENT REGULATION IN QUEENSLAND.....	4
3.1	PERSONATION OFFENCES UNDER <i>POLICE SERVICE ADMINISTRATION ACT 1990</i> (QLD)	4
3.1.1	Key Offences	4
3.1.2	Other Offences	5
3.2	<i>SECURITY PROVIDERS ACT 1993</i> (QLD).....	5
3.3	REQUIREMENTS FOR SECURITY PROVIDERS' UNIFORMS	6
3.4	TRAFFIC CONTROL INDUSTRY REFORMS	7
4	TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) BILL 2003.....	8
4.1	AMENDMENT TO MEANING OF 'DISQUALIFYING OFFENCE'	8
4.2	OTHER AMENDMENTS.....	8
5	A COMPARATIVE SURVEY.....	9
5.1	OTHER AUSTRALIAN JURISDICTIONS	9
5.1.1	Australian Federal Police	9
5.1.2	Australian Capital Territory	10
5.1.3	South Australia	11
5.1.4	New South Wales.....	12
5.1.5	Tasmania	13
5.1.6	Victoria	14
5.1.7	Western Australia	15

5.1.8	Northern Territory	15
5.2	UNITED STATES REGULATION.....	16
5.2.1	St. Louis, Missouri	16
5.2.2	Kansas City, Missouri	17
5.2.3	Westminster City, Colorado	18
5.2.4	Lynchburg City, Virginia	19
5.2.5	Tennessee.....	19
APPENDIX A – MINISTERIAL MEDIA STATEMENTS		21
RECENT QPL PUBLICATIONS 2003.....		23

1 INTRODUCTION

There has been a rapid growth in the preceding decades of the private security industry in Australia. The exact number of security providers is difficult to determine; however, a conservative estimate in the late 1990s was that there were approximately 100,000 security personnel in Australia at that time, outnumbering officers of the state and federal police services by more than two to one.¹

A consequence of this increase, together with the characteristics of the uniforms of some security providers, is a mistaken impression at times amongst members of the public that the security providers may be police officers.

The *Police Service Administration Act 1990* (Qld) contains offences for impersonating police officers. The Security Providers Regulation 1995 (Qld) also bans the wearing of chequerboard hats by security providers and prescribes certain identification that must be worn by crowd controllers. In terms of the traffic control industry, reforms were recently announced to ensure that traffic controllers' uniforms do not resemble those of police officers.²

The Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003 (Qld) (the Bill) was introduced into the Queensland Legislative Assembly on 7 October 2003 by the Hon M Rose MP, Minister for Tourism and Racing and Minister for Fair Trading. Part 15 of the Bill amends the *Security Providers Act 1993* (Qld).

A key amendment under the Bill is to include as a 'disqualifying offence' for applicants for security providers' licences, and for current licensees, the impersonation offences under the *Police Service Administration Act 1990*. The amendment is introduced as a further deterrent to licensees exploiting any public confusion that a security provider is a police officer, which may result in an abuse of an individual's rights and liberties.³

¹ Australian Institute of Criminology, 'Regulating Private Security in Australia', *Media Release*, 2 December 1998.

² Hon P Beattie MP, Premier and Minister for Trade, 'Traffic Control Industry Undergoes Reforms', *Media Statement*, 1 October 2003.

³ Hon M Rose MP, Minister for Tourism and Racing and Minister for Fair Trading, Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003 (Qld), Second Reading Speech, *Queensland Parliamentary Debates*, 7 October 2003, pp 3664-3666, p 3666.

2 BACKGROUND TO THE REFORM

2.1 BEATTIE GOVERNMENT POLICY

In 1998, the Beattie Government committed itself to a policy of being “tough on crime” and “tough on the causes of crime”.⁴ Its 2001 *Tough on Crime* policy document stated-

Over the years, police have had many complaints from members of the public about private security guards and traffic controllers under the mistaken impression they are in fact police officers. People think they are police officers because their uniforms are designed to look like police uniforms.

In a second term, the Beattie Government will introduce regulations to ensure the public of Queensland are not misled about the role of private security guards and traffic controllers. We will not be moving down the path the Americans have taken by allowing a private enforcement alternative to police to develop. While private security guards and traffic controllers have an important role to play, they are not appointed to enforce the law and should be readily distinguishable from officers of the Queensland Police Service.⁵

2.2 POLICE CONCERNS - QUEENSLAND POLICE UNION COMMENTS

News articles from April 2000 report the concerns of the then Police Commissioner and the Queensland Police Union regarding security providers dressing like police officers.

The following comments were attributed to then Queensland Police Union State Secretary Merv Bainbridge-

Security guards should stop ‘dressing up’ as police officers... some security guards are verging on impersonating police....roadworks guards can regularly be seen wearing blue clothes, wide brim hats and shoulder badges that are all similar to police uniforms.⁶

Mr Bainbridge was also quoted as having mentioned regular complaints being received about ‘police officers’ standing aimlessly next to roadwork sites.⁷ The

⁴ “*Tough on Crime, Tough on the Causes of Crime: 2001 and Beyond*”, Policies – Australian Labor Party, Queensland Division, p 1.

⁵ “*Tough on Crime, Tough on the Causes of Crime: 2001 and Beyond*”, pp 9-10.

⁶ David Murray, ‘Look-alike uniforms ‘undermine police role’’, *Courier Mail*, 3 April 2000, p 7.

⁷ David Murray, ‘Look-alike uniforms ‘undermine police role’.’

complaints apparently stemmed from members of the public mistaking security providers for police. Mr Bainbridge said-

*It is an attempt to take, by stealth, some authority enjoyed by police officers. But we find it very embarrassing that the public confuses these people with police officers. ... Security companies should have some 'corporate responsibility' about dressing their staff very similarly to police officers.*⁸

National Security Training Academy chief Richard Franks responded to Mr Bainbridge's comments by saying that the uniforms helped security providers do their jobs safely when performing duties such as directing traffic. Mr Franks said-

*Some security firms do have uniforms that are very close to police uniforms. That is not an illegal act in the state of Queensland. Police could lobby the Fair Trading Minister for changes to the Security Providers Act if they were concerned about the uniform. After consultation with the industry, they could control things like the standard of uniforms security guards use.*⁹

Mr Bainbridge later reiterated the Union's concerns and is quoted as saying-

*Security guards who are allowed to direct traffic but are not permitted to pull over vehicles or discipline drivers, are giving police a bad name. ... Many times a week I get phone calls from members of the public who have mistaken security guards for police officers. ... It's quite disgraceful. It's not done by accident, it's by design. They have shoulder patches that look similar to police, epaulets, navy trousers, a similar type of hat. You have to look twice. They even drive vehicles with signs on the doors and flashing bar lights across the top. ... Security officers have little or no training compared with real police. ... Yet in some cases they are licensed either to carry firearms or assume this colourful imitation of a police uniform. There is a place for security guards but they must wear a uniform that can never be confused with that of a police officer. It must be distinctive as their own.*¹⁰

Then Police Commissioner Jim O'Sullivan was also reported as saying that the similarities between security guards and police officers had "got out of hand" and it was "time the look-alike uniforms were banned".¹¹

⁸ David Murray, 'Look-alike uniforms 'undermine police role''.

⁹ David Murray, 'Look-alike uniforms 'undermine police role''.

¹⁰ Elissa Lawrence, 'Spot the real cop! Police see red at boys in blue', *Sunday Mail*, 23 April 2000, p 13.

¹¹ Elissa Lawrence, 'Spot the real cop! Police see red at boys in blue'.

3 CURRENT REGULATION IN QUEENSLAND

The following exist in Queensland to address public confusion regarding the mistaken identity of security providers-

- personation offences under the *Police Service Administration Act 1990* (Qld);
- licensing requirements under the *Security Providers Act 1993* (Qld); and
- banning of chequerboard hats for security providers and prescribed identification requirements for crowd controllers under the *Security Providers Regulation 1995* (Qld).

The recently commenced Traffic Control Accreditation Scheme introduced reforms to the traffic control industry, including requirements for consistent identification and dress codes.

3.1 PERSONATION OFFENCES UNDER *POLICE SERVICE ADMINISTRATION ACT 1990* (QLD)

3.1.1 Key Offences

The key personation offences under the *Police Service Administration Act 1990* are-

- if a person, other than a police officer lawfully entitled to do so, assumes the designation or description of an officer or of a class of officer, or wears the uniform of an officer or a colourable imitation thereof (s 10.19(d)); or
- if a person, other than a police officer lawfully entitled to do so, for the purposes of, or in connection with, any business, occupation or employment, assumes or uses the designation 'detective', 'private detective' or another designation that includes the word 'detective', or the name, designation, rank or description of any officer or any class of officer (s 10.19(e)(i)).

A maximum penalty of 100 penalty units (\$7,500) applies to these offences.¹²

¹² *Penalties and Sentences Act 1992* (Qld), s 5(1)(b).

3.1.2 Other Offences

A person also commits an offence under the *Police Service Administration Act 1990* if they-

- have in their possession, without lawful excuse, a document of a confidential nature brought into existence for the purpose of the police service or anything (animate or inanimate) appropriated to the use of the police service or on issue to an officer or to a person who was an officer (s 10.19(b));
- assume the name of an officer with intent to mislead (s 10.19(c));
- being other than an officer lawfully entitled to do so, for the purpose of or in connection with any business, occupation or employment, and being a former officer or member of the police force, use their former designation, rank or description (s 10.19(e)(ii)); or
- are found on, or have just left, any place appropriated to the use of, or used for the time being by, the police service, without lawful excuse for being or having been in or on that place (s 10.19(f)).

A maximum penalty of \$7,500 also applies to these offences.

3.2 SECURITY PROVIDERS ACT 1993 (QLD)

Security providers must hold an appropriate licence under the *Security Providers Act 1993* (s 10). A ‘security provider’ is defined as a crowd controller,¹³ private investigator,¹⁴ security officer¹⁵ or security firm¹⁶ (s 4(1)).

A number of matters must be considered in determining whether an applicant is entitled to a licence, including whether the person is an ‘appropriate person’ to

¹³ A person who, for reward, acts as a bodyguard or is at a public place principally for the purpose of maintaining order in or about the public place (*Security Providers Act 1993*, s 5).

¹⁴ A person who, for reward, obtains and gives information about another person (*Security Providers Act 1993*, s 6).

¹⁵ A person who, for reward, patrols or guards another person’s property (*Security Providers Act 1993*, s 7).

¹⁶ A person (including a corporation) who, or partnership that, engages in the business of supplying, for reward, the services of crowd controllers, security officer or private investigators to other persons (*Security Providers Act 1993*, s 8).

hold the licence.¹⁷ A person is not an appropriate person to hold a licence if, within 10 years of their application, they have been convicted of a ‘disqualifying offence’ or an offence that would have been a disqualifying offence if committed in Queensland (s 11(5)).

The grounds for suspending, cancelling or refusing to renew a licence include if the licensee¹⁸ is not, or is no longer, an appropriate person (s 21(1)(d)). The charging of a licensee with a disqualifying offence is a ground for suspending or refusing to renew a licence until the end of the proceeding for the charge (s 21(3)). Upon conviction of a licensee for a disqualifying offence, their licence is automatically cancelled (s 24).

‘Disqualifying offence’ is defined in s 3 to mean an offence-

- under the *Weapons Act 1990* (Qld) punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative; or
- under the *Drugs Misuse Act 1986* (Qld) punishable by imprisonment for 1 year or more, even if a fine may be imposed in addition or as an alternative; or
- against particular provisions of the Criminal Code mentioned in the schedule to the Act.

3.3 REQUIREMENTS FOR SECURITY PROVIDERS’ UNIFORMS

A licensed crowd controller, when acting in that capacity and not only as a bodyguard, must wear the identification that is prescribed by regulation in a manner that is clearly visible. The maximum penalty for a contravention is \$1,500.¹⁹

The prescribed identification must be black on a white background, worn on the chest of the crowd controller’s clothing and consist of a number (different for each crowd controller at the place) which is no smaller than 3cm in height and 4mm in

¹⁷ *Security Providers Act 1993*, s 11(2), if the applicant is an individual. Under s 13(1), where the applicant is a corporation or a firm, each officer or partner must be an appropriate person to be an officer or partner if the corporation or partnership were granted the licence.

¹⁸ Where the licensee is a corporation or partnership, this applies to the officers of the corporation or the partners of the partnership.

¹⁹ *Security Providers Act 1993*, s 47.

thickness and the word “SECURITY” in letters no smaller than 1cm in height and 2mm in thickness.²⁰

Since 9 May 2003, all security providers have been banned from wearing, displaying (for example, by holding) or permitting to be displayed a chequerboard hat.²¹ The maximum penalty for a contravention is \$1,500.

Chequerboard hatbands were considered the biggest single identifying factor in security providers being mistaken for police.²² The further step of banning the wearing of blue uniforms was not taken, apparently on the policy ground of the cost to security providers of having to replace their entire uniforms.²³

3.4 TRAFFIC CONTROL INDUSTRY REFORMS

Reforms to the traffic control industry to ensure that traffic controllers’ uniforms do not resemble police uniforms were recently announced.²⁴ The reforms commenced on 29 September 2003 and were introduced through the new Traffic Control Accreditation Scheme.²⁵ Traffic controllers have 12 months to comply with the new requirements. To gain and maintain accreditation, traffic controllers must satisfy certain conditions of entry to the scheme.²⁶

The scheme has a requirement for consistent identification and dress codes. It provides that-

The wearing of a police uniform, part of a police uniform or any imitation of a police uniform or imitation of part of a police uniform, is an offence under s 10.19 of the Police Service Administration Act 1990. A traffic controller shall not wear, nor shall

²⁰ Security Providers Regulation 1995 (Qld), regulation 19.

²¹ Security Providers Regulation 1995 (Qld), regulation 20.

²² Hon P Beattie MP, Premier and Minister for Trade, ‘Beattie Bounces Rogue Security Officers’, *Media Statement*, 1 October 2003. A copy of this Media Statement is included in Appendix A of this Research Brief.

²³ Rosemary Odgers, ‘Dress Laws Tone Down Security Uniforms’, *Courier Mail*, 27 January 2003, p 8.

²⁴ Hon P Beattie MP, ‘Traffic Control Industry Undergoes Reforms’, *Media Statement*, 1 October 2003.

²⁵ The Traffic Control Accreditation Scheme was introduced under s 21 of the *Transport Operations (Road Use Management) Act 1995* (Qld).

²⁶ Queensland Transport, *Traffic Controller Accreditation Scheme*, Fact Sheet 2, September 2003.

*the person or entity employing the traffic controller supply, uniforms similar in colour and design to those worn by members of the Queensland Police Service (for example, a pale blue shirt with dark blue epaulettes and shoulder patch insignia attached) or items of clothing that may place the wearer in breach of s 10.19 of the Police Service Administration Act 1990.*²⁷

A vest must be worn as the outer garment. The words “TRAFFIC CONTROL” must be centrally placed in two lines across the full width of the front and back of the vest, in red or orange reflective material and in upper case letters of 80mm in height.²⁸ Hats and caps worn by traffic controllers must not be fitted with a chequered band.²⁹

A conviction for an offence against section 10.19 of the *Police Service Administration Act 1990* will cause Queensland Transport to initiate show cause proceedings against the accredited traffic controller.³⁰

4 TOURISM, RACING AND FAIR TRADING (MISCELLANEOUS PROVISIONS) BILL 2003

4.1 AMENDMENT TO MEANING OF ‘DISQUALIFYING OFFENCE’

The key amendment in **Part 15** of the Bill relates to the definition of ‘disqualifying offence’ in section 3 of the *Security Providers Act 1993*. **Clause 83** amends that definition by including an offence against sections 10.19(b) to (f) of the *Police Service Administration Act 1990*³¹ as a disqualifying offence.

4.2 OTHER AMENDMENTS

Clause 84 amends section 14 of the *Security Providers Act 1993* so that if an applicant for a licence has been charged with a disqualifying offence, a decision to

²⁷ Queensland Transport and Main Roads, *Traffic Controller Accreditation Scheme Approved Procedure*, p 14.

²⁸ *Traffic Controller Accreditation Scheme Approved Procedure*, Part 4.1, p 14.

²⁹ *Traffic Controller Accreditation Scheme Approved Procedure*, paragraph 4.2.3, p 15.

³⁰ *Traffic Controller Accreditation Scheme Approved Procedure*, note to paragraph 4.0.3, p 14.

³¹ Sections 10.19(b) to (f) of the *Police Service Administration Act 1990* are discussed in sections 3.1.1 and 3.1.2 of this Research Brief.

grant or refuse the licence may be deferred until the end of the proceeding for the charge.

Clauses 85 and 86 amend sections 19 and 20(4) respectively of the *Security Providers Act 1993* so that a licence may be issued or renewed for either a 1 year or 3 year term. A 1 year term for new licences and renewals is currently allowed for.

Clause 87 amends section 21 of the *Security Providers Act 1993* and inserts the following new grounds for the suspension, cancellation or refusal to renew a licence:

- where the licensee has been convicted of an offence against s 666 of the *Industrial Relations Act 1990* (Qld), which relates to the underpayment of award wages; and
- where the licensee has contravened an order of the industrial commission or the Magistrates Court to pay wages.

5 A COMPARATIVE SURVEY

5.1 OTHER AUSTRALIAN JURISDICTIONS

All Australian States and Territories have introduced legislation for the licensing of at least some parts of the private security industry. Each Australian jurisdiction also has laws which make it an offence to impersonate a police officer.

In all jurisdictions other than South Australia, the offence of impersonating a police officer is not specifically a ground for the refusal to issue or renew a licence, or for taking disciplinary action against existing licensees.

The uniform requirements for security providers also vary between the jurisdictions, with some limited to prescribing the wearing of certain identification while others require prior approval of a uniform.

5.1.1 Australian Federal Police

Section 63(1) of the *Australian Federal Police Act 1979* (Cth) sets a penalty of 12 months imprisonment for the offence of-

- wearing or displaying any uniform or badge of a police officer, any colourable imitation of such a uniform or badge, or any uniform or badge so closely resembling such a uniform or badge as to be likely to deceive;

- possessing any arms or ammunition, or any article of clothing, accoutrements or equipment, supplied to any police officer; or
- possessing any book or document issued, or purporting to be issued by, the Australian Federal Police.

5.1.2 Australian Capital Territory

Personation Offence and Implications on Licensing

A person must not hold themselves out as a police officer, wear a uniform or badge of a police officer, or wear any clothing or badge so closely resembling the uniform or badge of a police officer as would be likely to deceive. A person must also not hold themselves out as a detective or carry on or assist in a business under the description of a detective business or agency. A maximum penalty of \$5,000 and/or 6 months' imprisonment applies to both offences.³²

In deciding whether to issue or vary a licence under the *Security Industry Act 2003* (ACT), consideration must be given to whether the applicant has committed a 'relevant offence' (s 23(1)). Disciplinary action involving the suspension or cancellation of an existing licence may also be taken if a licensee has committed a relevant offence (s 30). 'Relevant offence' is defined by not specifically including the personation offences mentioned above.

Uniform Requirements

The *Security Industry Act 2003* (ACT) prohibits a licensed employee from carrying on a security activity without wearing their licence so that the licence number is clearly visible (s 42(1)). The maximum penalty for a contravention is \$1,000.³³

The *Security Industry Act 2003* (ACT) also allows regulations to be made regarding the wearing of uniforms, the kind of uniforms that may be worn and the markings on, and the design of any features of, a vehicle used in the carrying on of a security activity (s 52(2)(d)). The regulations under the Act, however, do not make provision in this regard.³⁴

³² *Crimes (Offences against the Government) Act 1989* (ACT), s 17A.

³³ *Legislation Act 2001* (ACT), s 133(1)(b)(i).

³⁴ *Security Industry Regulations 2003* (ACT).

5.1.3 South Australia

Personation Offence and Implications on Licensing

A person who wears what is or appears to be a police uniform, or who represents themselves by word or conduct to be a police officer, commits an offence. Possession of a police uniform or police property is also an offence. A maximum penalty of \$2,500 or imprisonment for 6 months applies to both offences.³⁵

A person is entitled to be granted a licence under the *Security and Investigation Agents Act 1995* (SA) if, amongst other things, the person has not been convicted of an offence of a class specified by regulation.³⁶ A licence may also be cancelled or suspended, or a licensee disqualified from holding a licence, if the licensee would not be entitled to be granted a licence if they were to apply for one (s 25). The *Security and Investigation Agents Regulations 1996* (SA) specifically includes the personation offences mentioned above (schedule 1).

Uniform Requirements

Crowd controllers must be issued with an identification card which legibly displays in black characters on a white background—

- a number not less than 4cm in height and comprised of lines not less than 5mm in thickness;
- the word “security” in letters not less than 5mm in height; and
- the name of the place or the event, in letters not less than 5mm in height, in respect of which the card is issued.³⁷

The identification card must be worn on the crowd controller’s chest, securely attached to the outside of their clothing, so that at all times the numbers on the card are clearly visible to other persons.³⁸

³⁵ *Police Act 1998* (SA), s 74.

³⁶ *Security and Investigation Agents Act 1995* (SA), s 9.

³⁷ *Security and Investigation Agents Regulations 1996* (SA), regulation 11.

³⁸ *Security and Investigation Agents Regulations 1996* (SA), regulation 12.

5.1.4 New South Wales

Personation Offence and Implications on Licensing

Impersonating a police officer is an offence,³⁹ as is wearing or possessing police uniforms, using police insignia and driving or possessing a motor vehicle that has on it any police insignia.⁴⁰ The offences are punishable by a maximum penalty of \$11,000⁴¹ and/or 6 months' imprisonment.

An application for a licence under the *Security Industry Act 1997* (NSW) must be refused if the applicant is not a fit and proper person to hold a licence, and may be refused if the grant of the licence would be contrary to the public interest (s 15). Similar tests apply for the revocation of an existing licence (s 26). The personation offences mentioned above are not specifically listed as disqualifying offences.⁴²

Uniform Requirements

Security guards must wear a recognisable security guard's uniform when carrying firearms.⁴³ Licensees must also wear on their person, so as to be clearly visible, the form of their licence that also contains a photograph of the licensee.⁴⁴ A maximum penalty of \$4,400 applies for contravention. Regulation 28 of the *Security Industry Regulation 1998* (NSW) provides that-

- (1) *The Commissioner is to prepare guidelines with respect to:*
 - (a) *the character and design of uniforms to be worn in connection with the carrying out of security activities, and*
 - (b) *the markings that may be made on, and the design of any specified features of, vehicles used in any such connection,*

and must make those guidelines available on request to any interested person.
- (2) *The Commissioner may, by notice to a person or the person's employer, advise:*

³⁹ *Police Act 1990* (NSW), s 204.

⁴⁰ *Police Act 1990* (NSW), s 203.

⁴¹ *Crimes (Sentencing Procedure) Act 1999* (NSW), s 17.

⁴² *Security Industry Regulation 1998* (NSW), regulation 11.

⁴³ *Security Industry Act 1997* (NSW), s 23A.

⁴⁴ *Security Industry Act 1997* (NSW), s 36.

- (a) *that the character and design of the uniform worn by that person, by reason of some feature specified in the notice, do not accord with the relevant guidelines; or*
 - (b) *that the vehicle used by that person, by reason of some marking or feature specified in the notice, does not accord with the relevant guidelines.*
- (3) *A person to whom an advice has been notified in relation to a uniform or vehicle must not wear the uniform or use the vehicle, or permit his or her employees to do so, until the objectionable feature or marking has been corrected or removed.*

5.1.5 Tasmania

Personation Offence and Implications on Licensing

A person must not possess any arms or ammunition, or any article of clothing, accoutrements or appointments supplied to any police officer, and must not put on or assume the dress, name, designation or description of a police officer, with the intention that it should be believed or with the knowledge that it is likely that it will be believed that they are a police officer. On the complaint of any police officer, a person is liable to a fine not exceeding one penalty unit, in addition to any other punishment for which they may be liable.⁴⁵ A person must also not wear, or direct or require another person to wear, any head dress incorporating a chequered cap band.⁴⁶ A maximum penalty of one penalty unit applies.

One penalty unit in Tasmania has a value of \$100.⁴⁷

Section 290 of the *Criminal Code Act 1924* (Tas) provides that any person who, with intent to defraud or to exercise any unlawful authority, personates any public officer, or falsely represents themselves to be a public officer, is guilty of a crime. A 'public officer' extends to include a police officer.

The personation offences above are not specific grounds for the ineligibility of a person to apply for a licence under the *Security and Investigations Agents Act 2002* (Tas), or for the suspension or cancellation of an existing licence.

⁴⁵ *Police Regulation Act 1898* (Tas), s 34.

⁴⁶ *Police Regulation Act 1898* (Tas), s 34A.

⁴⁷ *Penalty Units and Other Penalties Act 1987* (Tas), s 4.

Uniform Requirements

A security agent or guard must wear their identity card while performing the activities of a security agent or guard, so that it is clearly visible. A penalty of \$10,000 applies for a contravention.⁴⁸ The regulations are silent on uniform requirements.⁴⁹

5.1.6 Victoria

Personation Offence and Implications on Licensing

A person is liable to a \$10,000 penalty, in addition to any other punishment for which they may be liable, if they possess any arms or ammunition or any article of clothing, accoutrements or appointments supplied to any member of the force, or put on or assume any dress, name, designation or description used by or in relation to any member of the force, or any class of members of the force.⁵⁰

The personation offence is not a specific ground upon which an application for the grant or renewal of a licence under the *Private Agents Act 1966* (Vic) must be refused, or for the cancellation or suspension of an existing licence.

Uniform Requirements

A crowd controller must wear clearly visible identification as required by the regulations.⁵¹ The identification must be worn on their chest and be a number not less than 4cm in height and 5mm in thickness and the word “SECURITY” in letters at least 5mm high.⁵²

⁴⁸ *Security and Investigations Agents Act 2002* (Tas), s 27(2).

⁴⁹ *Security and Investigations Agents Regulations 2002* (Tas).

⁵⁰ *Police Regulation Act 1958* (Vic), s 97.

⁵¹ *Private Agents Act 1966* (Vic), s 41.

⁵² *Private Agents Regulations 2003* (Vic), regulation 23.

5.1.7 Western Australia

Personation Offence and Implications on Licensing

A person must not possess any arms, ammunition, article of clothing, accoutrements or appointments supplied to any police officer. A person must also not assume the dress, name, designation or description of any member of the police service, or pretend or assert that they are a member of the police service. A maximum penalty of \$500 and/or imprisonment for 6 months, in addition to any other penalty that may be imposed, applies for both offences.⁵³

The personation offences mentioned above are not specific grounds for the refusal of a licence under the *Security and Related Activities (Control) Act 1996* (WA), or for the revocation of or refusal to renew an existing licence.

Uniform Requirements

Applications may be made to the Commissioner for the approval of a uniform to be worn, or a set of vehicle markings to be carried on vehicles used, by security officers. The Commissioner must refuse such approval if the uniform or markings are considered confusingly similar to those used by a police force.⁵⁴

5.1.8 Northern Territory

Personation Offence and Implications on Licensing

A person must not impersonate a member of the police force. The penalty is \$500 and/or 3 months' imprisonment.⁵⁵

Personation is not a specific ground upon which a person is not an appropriate person to hold a licence under the *Private Security Act 1995* (NT), or for the suspension, cancellation or refusal to renew an existing licence.

⁵³ *Police Act 1892* (WA), s 16(1).

⁵⁴ *Security and Related Activities (Control) Regulations 1997* (WA), s 22.

⁵⁵ *Police Administration Act 1978-79* (NT), s 156.

Uniform Requirements

A crowd controller must wear prescribed identification, so that it is clearly visible.⁵⁶ Regulation 7 of the Private Security (Crowd Controllers) Regulations 1996 (NT) states that a badge must be worn which is not less than 6cm in height and on which appears, in black lettering on a white background, the word “SECURITY” in capitals not less than 5mm in height and the number assigned to the crowd controller by their employer in characters not less than 4cm in height and 5mm in width.

5.2 UNITED STATES REGULATION

A number of American jurisdictions have regulated so that security guards’ uniforms and vehicle markings must not resemble, or be able to be mistaken for, those of the state police or other official law enforcement agencies. In some jurisdictions, impersonation may specifically be a ground for the refusal to issue a licence or take disciplinary action against an existing licensee. By way of example, a selection of these jurisdictions is discussed below.

5.2.1 St. Louis, Missouri

The St. Louis Board of Police Commissioners has prescribed as follows in relation to the uniforms to be worn by licensed security officers-⁵⁷

- No private security uniforms may resemble those of St. Louis police officers. The light blue shirt with dark blue jacket and trousers must not be duplicated. A company shoulder patch is also mandatory, clearly identifying the officer as an employee of that agency.
- All private security officers must wear a uniform. The word ‘police’ must not be displayed on the uniform.
- All ‘couriers’ wearing articles of blue uniform similar to those worn by the St. Louis Police Department must have their company shoulder patch

⁵⁶ *Private Security Act 1995* (NT), s 54.

⁵⁷ Rules of the Boards of Police Commissioners, Division 20 – St. Louis Board of Police Commissioners, Chapter 2 - *Private Security Officers*, 17 CSR (Code of State Regulations) 20-2.085, found at <http://www.sos.state.mo.us/adrules/csr/current/17csr/17c20-2.pdf>.

affixed to either sleeve, below the shoulder seam, clearly distinguishing them from St. Louis police officers.

- The badge/identification card must be worn on the chest of the outermost garment, in plain view.
- Security personnel may wear a company badge or emblem as devised by their employer, bearing the name of their employer and identifying the individual as a private security officer. The word 'police' must not be used.
- No buttons, insignia or decorations which are marked in any way with the St. Louis Metropolitan Police Department imprint may be worn.
- The use of vehicles for security purposes must conform with the established rules governed under city ordinance. The word 'police' must not be displayed on the vehicles.

The Board has also prescribed in detail⁵⁸ the uniforms to be worn by licensed private 'watchmen'.

It is not apparent from the Rules whether an applicant would be denied a licence, or whether an existing licence could be suspended or cancelled, on the specific ground of having impersonated a police officer.⁵⁹

5.2.2 Kansas City, Missouri

The Board of Police Commissioners of Kansas City, Missouri has passed a regulation⁶⁰ stating that no uniforms, badges or vehicles identical to or bearing resemblance to, or using the word 'police', shall be approved for use by private security services. Again, it is not apparent whether an applicant will be denied a licence, or whether an existing licence may be suspended or cancelled, on the specific ground of having impersonated a police officer.

⁵⁸ Rules of the Boards of Police Commissioners, Division 20 – St. Louis Board of Police Commissioners, Chapter 4 - *Rules for Private Watchmen*, 17 CSR (Code of State Regulations) 20-4.085 – *Uniforms*, found at <http://www.sos.mo.gov/adrules/csr/current/17csr/17c20-4.pdf>.

⁵⁹ Rules of the Boards of Police Commissioners, Division 20 – St. Louis Board of Police Commissioners, Chapter 2 - *Private Security Officers*, 17 CSR (Code of State Regulations) 20-2.035.

⁶⁰ Rules of the Boards of Police Commissioners, Division 10 – Kansas City Board of Police Commissioners, Chapter 2 - *Private Security*, 17 CSR (Code of State Regulations) 20-2.060, found at <http://www.sos.state.mo.us/adrules/csr/current/17csr/17c10-2.pdf>.

5.2.3 Westminster City, Colorado

The Municipal Code of the City of Westminster, Colorado states that⁶¹:

- Any licensee or employee may be required to wear an identification badge or uniform, but no such badge or uniform may be worn which is a colorable imitation of, or could be confused with, badges or uniforms worn by officers of the Westminster Police Department, Adams County Sheriff's office, Jefferson County Sheriff's office or the Colorado State Patrol.
- No vehicle used in a security guard business or by a security guard must be used or identified in any way which may be confused with those used by the Westminster Police Department, Adams County Sheriff's office, Jefferson County Sheriff's office or the Colorado State Patrol, nor must any vehicle be equipped with a siren or emergency lights in violation of local or state law.
- The words 'police' or 'officer', or other similar words which might be confused with or represent a municipal, county, state or federal law enforcement agency, must not be used in any advertisement upon any premises within the limits of the City, nor on any clothing, vehicles or equipment used by the licensee.
- The City Manager or his designee may issue an order denying use of any item which is in violation of these provisions.

It is also unlawful for any security guard business licensee or an employee of a licensee to-

- represent themselves to be an officer of the Westminster Police Department or any municipal, county, state or federal law enforcement agency;
- wear a badge or uniform or use any vehicle or equipment not authorised for use; or
- advertise, represent or identify themselves as a police officer or use any acronym or initials that could cause them to be mistaken to be a member of a federal, state or municipal law enforcement agency.⁶²

A violation of any of the above may be grounds for denial, cancellation, denied renewal, suspension or revocation of a licence.⁶³

⁶¹ City of Westminster Colorado Municipal Code, Chapter 13, s 5-13-10 – *Badges, Uniforms and Equipment*, found at <http://www.ci.westminster.co.us/Code/Title05/T5C13.htm>.

⁶² City of Westminster Colorado Municipal Code, Chapter 13, s 5-13-13 – *Prohibited Acts*.

5.2.4 Lynchburg City, Virginia

The *Lynchburg Code*⁶⁴ states that when an official uniform and insignia have been adopted by the chief of police, no security guard, private investigator or detective, conservator of the peace, special police officer or other person in the city shall wear the uniform, badge or patch used by the police department, or any uniform of similar appearance or bearing any insignia or markings similar to a police officer's uniform. It also states that the chief of police shall approve the uniforms, badges and patches worn by or issued to security guards, private investigators or detectives, conservators of the peace or special police officers prior to the wearing of such uniforms, badges and patches in the city.

5.2.5 Tennessee

The *Private Protective Services Licensing and Regulatory Act 1987*⁶⁵ prohibits individual security guards from holding themselves out as law enforcement officers while engaged in private employment by a contract security company. Private security guards employed by a contract security company are prohibited under the Tennessee Code, §62-35-128, from wearing police-style uniforms unless the uniforms have affixed to their outermost garment a badge or insignia distinct in design from any law enforcement agency in the State.

Private security guards are further prohibited from displaying any badge, insignia, shield, patch or pattern, or using any vehicle or equipment, which indicates or tends to indicate that such person is a sworn peace officer, contains the word 'police' or its equivalent, or is similar in wording to any law enforcement agency in the State (Tennessee Code, §62-35-127).

Violation of any of the above matters may be grounds for certain disciplinary action including denial of an application, suspension, revocation or refusal to issue or renew a licence. (Tennessee Code, §62-35-130).

⁶³ City of Westminster Colorado Municipal Code, Chapter 13, s 5-13-8(A) – *Licence Denial, Suspension, Cancellation, Non-Renewal or Revocation*.

⁶⁴ Lynchburg Code, City of Lynchburg, Virginia, Chapter 31, Police, s 31-8.1, found at http://www.lyncburgva.gov/council_manager/ccodepdf/Chapter31.PDF.

⁶⁵ This Act is Chapter 35 of Title 62 in the Tennessee Code, found at <http://198.187.128.12/tennessee/lpext.dll?f=templates&fn=fs-main.htm&2.0>

APPENDIX A – MINISTERIAL MEDIA STATEMENTS

Hon Rod Welford MP, Attorney-General and Minister for Justice

13 October 2003

New magistrate transfer system a win for regions

The State Government will improve the system for transferring magistrates to regional Queensland, requiring every magistrate to serve at least two years outside Brisbane.

Premier Peter Beattie and Attorney General and Minister for Justice Rod Welford said new legislation would strengthen the guarantee of a robust legal system for communities throughout Queensland.

"Our Magistrates Courts are the coalface of the Queensland justice system, where more than 90% of all matters are heard," Mr Beattie said.

"It is not a Brisbane-based system - Magistrates Courts must serve communities effectively wherever they are located.

"The Attorney General will this week introduce to Parliament legislation making it clear that magistrates will have to serve outside Brisbane during their time on the bench.

"Magistrates who have not served outside the south east corner within the past 10 years will be a priority for transfer," Mr Beattie said.

He said there will also be new rules for dealing with magistrates charged with indictable offences.

"A magistrate charged with an indictable offence will be automatically suspended on full pay, and a magistrate convicted of an indictable offence will be automatically suspended without pay.

"Pay will be reimbursed if the magistrate is acquitted on appeal," Mr Beattie said.

Mr Welford said the new legislation would create a much more straightforward process for determining the transfer of Magistrates to regional centres.

"The new process will be fair and more transparent and magistrates will have every opportunity to have their say," he said.

"The Chief Magistrate will be responsible for transfers but will have the assistance of a 'Court Governance Committee'.

"This committee will comprise the Deputy Chief Magistrate, the State Coroner and two other magistrates.

"One of its first tasks will be to develop a 'transfer policy' based on the guidelines in this legislation.

"These guidelines will make it clear that all magistrates must serve in regional areas, that expressions of interest for transfers should be called, and that transfers should be for a period of at least two years.

"The refusal by a magistrate to comply with a reasonable transfer decision could constitute grounds for suspension and removal.

"A magistrate who objects to a transfer decision will be able to seek a judicial review, but only where the Chief Magistrate ignores the recommendation of the Court Governance Committee.

"The review will be on grounds of unreasonableness and failure to afford natural justice, and the magistrate bringing the application will have to pay their own costs, unless the judge determines that this is unreasonable in the circumstances," Mr Welford said.

Mr Welford said there would also be changes to the law on how the Chief Magistrate is permitted to discipline colleagues.

"We are bringing the position into line with other jurisdictions and the Chief Magistrate will no longer have the power to reprimand colleagues," he said.

The changes are part of the Magistrates Amendment Bill 2003.

Media contact: Greg Milne on 32393478 or 0417791336

RECENT PARLIAMENTARY LIBRARY RESEARCH PUBLICATIONS 2003

RESEARCH BRIEFS

RBR2003/01	<i>Reform of Negligence Law – The Queensland Response: The draft Civil Liability Bill 2002</i>	Feb 2003
RBR2003/02	<i>Protecting Transgender Rights under Queensland’s Discrimination Law Amendment Act 2002</i>	Feb 2003
RBR2003/03	<i>Legal Profession Reform in Queensland: Multi-Disciplinary Practices (MDPs)</i>	Feb 2003
RBR2003/04	<i>The Coroners Bill 2002 (Qld): Highlighting the important role of coroners in accident prevention</i>	Feb 2003
RBR2003/05	<i>Protecting Workers With Family Responsibilities under Queensland’s Discrimination Law Amendment Act 2002</i>	Feb 2003
RBR2003/06	<i>Land Clearing Offences and the Natural Resources and Other Legislation Amendment Bill 2003 (Qld)</i>	Mar 2003
RBR2003/07	<i>The Research Involving Human Embryos and Prohibition of Human Cloning Bill 2003</i>	Mar 2003
RBR2003/08	<i>The Sports Drug Testing Bill 2003 (Qld)</i>	Mar 2003
RBR2003/09	<i>Abortion Law Reform: An Overview of Current Issues</i>	April 2003
RBR2003/10	<i>Enhancing Community Safety: The Corrective Services Amendment Bill 2003 (Qld)</i>	April 2003
RBR2003/11	<i>Defamation and the Internet: A New Challenge</i>	May 2003
RBR2003/12	<i>New Rules for Fitness Services: The Fair Trading (Code of Practice - Fitness Industry) Regulation 2003</i>	May 2003
RBR2003/13	<i>Change of Name Provisions under the Births, Deaths and Marriages Registration Bill 2003</i>	May 2003
RBR2003/14	<i>Taking Children’s Evidence Using Technology–Evidence (Protection of Children) Amendment Bill 2003 (Qld)</i>	May 2003
RBR2003/15	<i>Protecting Breastfeeding Mothers under Queensland’s Discrimination Law Amendment Act 2002</i>	Aug 2003
RBR2003/16	<i>Regulation of Inbound Tourism Operators – Tourism Services Bill 2003 (Qld)</i>	Aug 2003
RBR2003/17	<i>Quality Assurance for Higher Education – The Higher Education (General Provisions) Bill 2003 (Qld)</i>	Aug 2003
RBR2003/18	<i>The Child Protection (International Measures) Bill 2003 (Qld)</i>	Aug 2003
RBR2003/19	<i>The Housing Bill 2003 (Qld)</i>	Aug 2003
RBR2003/20	<i>Criminal History Disclosure Reforms under the Health Legislation Amendment Bill 2003 (Queensland)</i>	Aug 2003
RBR2003/21	<i>Committal Hearings and Disclosure Requirements under the Evidence (Protection of Children) Amendment Bill 2003 (Qld)</i>	Aug 2003
RBR2003/22	<i>Farm Debt Mediation Bill 2003 (Qld): Obliging Mortgagees to Engage in Mediation with Rural Producers</i>	Sept 2003
RBR2003/23	<i>Funeral Benefit Businesses and the Second-Hand Dealers and Pawnbrokers Bill 2003 (Qld)</i>	Sept 2003
RBR2003/24	<i>The costs of raising a child: Cattanach v Melchior and The Justice and Other Legislation Amendment Bill 2003 (Qld)</i>	Sept 2003
RBR2003/25	<i>The Building Amendment Bill 2003 (Qld): Strengthening swimming pool safety laws</i>	Sept 2003
RBR2003/26	<i>Prospects for Aquaculture and amendments to the Fisheries Act under the Primary Industries and Other Legislation Amendment Bill 2003 (Qld)</i>	Sept 2003
RBR2003/27	<i>‘Earn or Learn’ – The Youth Participation in Education and Training Bill 2003 and the Training Reform Bill (Qld) 2003</i>	Oct 2003
RBR2003/28	<i>The Commonwealth Powers (De Facto Relationships) Bill 2003 (Qld)</i>	Oct 2003
RBR2003/29	<i>The Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003 (Qld): Disqualification of Security Providers who Impersonate Police Officers</i>	Oct 2003

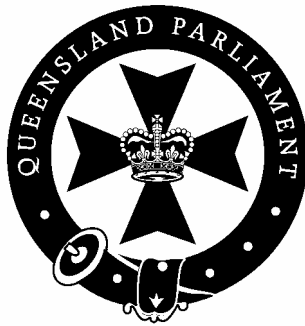
Research Papers are available as PDF files:

- to members of the general public the full text of Research briefs is now available on the parliamentary web site, URL, <http://www.parliament.qld.gov.au/Parlib/Publications/publications.htm>
- <http://www.parliament.qld.gov.au/Library/Query.exe> – e-Documents & e-Articles – Quick display of Library’s research publications

A Subject Index to Research Publications is available at the following site: <http://www.parliament.qld.gov.au/Parlib/Publications/bysubject.htm>

Parliamentary Library - Research Publications & Resources Telephone (07) 3406 7108

Orders may be sent to Carissa Griggs, cgrigg@parliament.qld.gov.au



This Publication:

RBR 2003/29 *The Tourism, Racing and Fair Trading (Miscellaneous Provisions) Bill 2003 (Qld): Disqualification of Security Providers who Impersonate Police Officers (QPL October 2003)*