Speech by

Ted Malone

MEMBER FOR MIRANI

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FIRE AND RESCUE SERVICE AMENDMENT BILL

Mr MALONE (Mirani—NPA) (5.25 pm): Before speaking to the Fire and Rescue Service Amendment Bill, I firstly thank the minister's officers who briefed us today and obviously during the last parliament. This bill was on the *Notice Paper* before the election and it consequently has been brought forward onto the *Notice Paper* this term. We have been dealing with the bill for quite some time and, as I said, I thank the departmental officers for their briefing.

The opposition will be supporting the bill. We have no concerns about the bill. Indeed, there has been little correspondence or few concerns raised in the public arena in respect of the bill. We can only assume that there are no outstanding issues with the bill. Certainly, the overriding issue of the bill is reasonably straightforward—that is, that it makes it compulsory for fire alarms to be installed in all existing homes. The bill also seeks to improve public safety of licensed premises that have an unacceptable risk of overcrowding and makes various other amendments to the Fire and Rescue Service Act 1990. As a background, in 2004-05 the Department of Emergency Services conducted a review of the Fire and Rescue Service Act 1990. The review identified a range of improvements for the safety arrangements in Queensland. This bill incorporates those improvements.

There are four basic areas that the bill addresses, and the first of those obviously is smoke alarms. There is currently no legal requirement for most pre-1997 homes and units to have smoke alarms installed. This bill seeks to amend this situation. The bill requires an alarm that meets the applicable Australian standard to be installed in locations in the home that are currently specified for new homes under the Building Code of Australia. There will be a maximum fine of $375 for failing to install alarms by 1 July 2007, and that is when this requirement will actually kick in.

The bill contains ongoing smoke alarm maintenance requirements for lessors and tenants. Lessors of rental properties are required to replace smoke alarms before the end of their service life which, under normal circumstances, is 10 years. Lessors have to check smoke alarms and carry out routine maintenance at the beginning of the tenancy and tenants are responsible for routine maintenance during the tenancy. To facilitate compliance, the bill requires the vendor to notify a purchaser on the sale of a property that that property contains smoke alarms. The vendor is also required to lodge a form with the Queensland Land Registry stating that smoke alarms have been installed, similarly with electrical safety switches. For manufactured homes, the bill requires that the smoke alarm notice be given by the seller of the home in the form of assignment used for the transfer of the home.

An issue that arises is responsibility while leasing. There is a concern regarding the responsibility placed on tenants. Landholders and even some tenants would well recognise that sometimes tenants are not quite as responsible as we would like. Under the bill, tenants must test smoke alarms once every 12 months and change smoke alarm batteries that are spent or that they believe are almost spent. Tenants must also advise the lessor if smoke alarms fail or are about to fail. During the tenancy, the tenant must also clean the smoke alarms once every 12 months. The responsibility is particularly troubling in light of the impact on insurance.

During the debate on the clauses of the bill, I will raise the fact that compliance refers to both the lessor and the tenant. Who then ensures that every 12 months fire alarms are cleaned and/or the battery is changed?

I have some lingering concerns about the bill in terms of its impact on insurance payouts in cases of fire. The advice is that there will be no impact on insurance payouts, but the issue could still be raised if, for instance, a tenant did not comply with the act and the fire alarm was inoperative at the time of the fire. I am concerned that that could create a liability situation, in which case the insurance company may not pay all of the insurance money or, indeed, may not pay any of it. I believe that situation raises some issues. The departmental briefings indicate that in other parts of Australia that issue has not been raised, but I wonder how long before it becomes an issue.

I am concerned about the types of alarms that are installed. Research indicates that photoelectric alarms are far more effective than ionisation alarms. In fact, groups within the community say that ionisation alarms have about a 75 per cent failure rate because they are heat detectors and not smoke detectors. Therefore, if a smouldering fire fills the house with smoke but has no heat in it, the ionisation alarms will not activate. The residents of the home could be asphyxiated by smoke before the ionisation alarms are activated. I am concerned that the legislation does not indicate a requirement to install photoelectric alarms. The explanatory notes highlight that the QFRS prefers photoelectric alarms, but the legislation makes only the minimum smoke alarm mandatory and that is, of course, the ionisation alarms. We need further public consultation, and certainly the public needs more education, on this issue.

The bill gives the commissioner of the Queensland Fire and Rescue Service the power to require licensed premises at risk of overcrowding to set and manage a specified minimum safe occupancy level. The QFRS will assist operators to assess maximum occupancy numbers in those premises over a 24-month period. I think that that is reasonable. I believe that the general public is concerned about nightclubs and such places because, from time to time, the numbers that crowd into those places are almost beyond belief. As we have seen in the past, a fire in such a place can be very tragic.

The bill raises the issue of unwanted alarms or QFRS call-outs to deal with situations that are not actually life threatening. The vast majority of call-outs—96.6 per cent in 2005-06—that the QFRS attends from monitored automatic alarm systems, which make up approximately one-third of all call-outs, are false in that, upon investigation, the cause of alarm activation is not an emergency that requires a fire service. That has a huge impact on the QFRS and also on the residents and owners of commercial buildings. There is a substantial cost for the QFRS in attending call-outs, and for the residents or owners of the buildings in terms of the fees that are charged for an unnecessary call-out.

The bill places an obligation on occupiers to maintain alarm systems so that they do not exceed an unacceptable level of unwanted alarms. Unwanted alarms are primarily the result of a lack of alarm suitability, inappropriate location and type of detectors, occupier activities, system malfunctions, lack of ability of detectors and alarms to distinguish between fires and normal conditions, and lack of appropriate design features and managerial procedures.

I would like to highlight an issue that has come to light in Townsville involving a popular self-contained holiday apartment. The *Townsville Bulletin* of 14 October 2006 states—

> The manager of one of Townsville's most popular self-contained holiday apartments has been stunned by the bureaucratic catch-22 which is costing her thousands of dollars in operating costs through no fault of her own.
>
> In the past four months, six false automatic fire alarm call-outs to the Ocean Breeze apartment complex on the corner of Mitchell and Kennedy streets just behind The Strand have cost the block owners $5160.
>
> 'It's ridiculous. We know these alarms are a necessary safety measure, but it is one that is set at such a sensitive level that even steam from a shower has set it off,' Ms O'Connor said.
>
> On other occasions, cooking fumes and burnt toast have turned into expensive call-outs.

I have some concerns in respect to that matter. I would hope that the department or the QFRS can work with building occupiers to overcome some of the problems. Alarms are set to Australian standards, but environmental conditions and perhaps even weather conditions can cause quite an amount of concern, not only for the department but, as I said, also for occupiers of commercial and domestic buildings.

The bill introduces a number of other amendments. The bill imposes a sliding scale of significant penalties for contraventions, ranging from $150,000 or three years imprisonment for contravention resulting in multiple deaths, to $7,500 where there is a contravention with no adverse consequences. Contraventions include failure to maintain a means of escape from a building, failure to maintain prescribed fire safety installations, failure to maintain a fire and evacuation plan, failure to prepare a fire safety management plan and failure to update the plan after a change of circumstances. It is very comprehensive.

The bill removes protections offered in the Criminal Code under sections 23 and 24 that relate to offending acts or omissions requiring intent and excuses acts done in an honest and reasonable, but mistaken, belief in the existence of facts. The removal of these protections is balanced by the inclusion of

the defence that the contravention was due to causes over which the person had no control and that the person took reasonable precautions and exercised proper diligence to avoid contravention.

The bill also clarifies the power of fire officers to enter premises for investigative and preventive purposes. In addition, the bill updates fire prevention and investigative powers in relation to the collection of evidence, the conduct of inquiries into fires and hazardous materials emergencies. The bill gives persons affected by fire safety enforcement actions the right to have their grievance aired by providing a right of merits appeal to particular occupants who are the subject of a requisition under section 69. It achieves this by allowing persons to apply to a panel for a stay of notice.

The bill allows the QRFS to provide building fire safety information to the owner. That has been an issue for quite some time. I have received many calls from people who have been deemed to be in breach of the act, but the QFRS has not been able to provide them with the information that would enable them to rectify the situation so that they can comply with the act. Currently, the act does not allow that to happen. So this amendment is certainly a step in the right direction.

The fees and charges provisions of the act are amended to clarify the intent of the charging provisions. This includes to clearly provide that the owners of properties who pay a fire levy are liable to be charged for attendances at unwanted fire alarms and to clearly recognise that the chief executive is able to waive a charge where it is reasonable in the circumstance to do so. So there is certainly flexibility in respect of that amendment.

The bill amends section 137 of the act to extend to building certifiers the requirement to provide fire safety inspectors with records where these records are not available from local government. Previously, local government was the sole provider of a building certifier's documents. Currently, we have an open system in place where private certifiers can undertake that work. So a local government no longer holds all the records for all of the buildings. This amendment extends the provision to apply to private certifiers as well.

The bill amends section 216 of the Building Act 1975 to overcome the recent decision of the District Court of Queensland in Goldfox Investments Pty Ltd v Paul Evans. In this decision the court decided that it was necessary to prove that the accommodation was used for the purposes of providing budget accommodation, rather than there being the mere existence of it, to fall within the definition. Basically, not only does the building have to provide the accommodation but also the accommodation has to be used. This amendment clears up that point. If there is a provision for accommodation, the building comes under the act.

The bill makes a range of other improvements to the fire safety regulatory framework to make the laws operate more efficiently. In terms of enforcement of the new laws, as I said earlier in my speech, we need to consider how some of these enforcements are going to take place. I imagine that there would be thousands of houses throughout Queensland which were built before 1997 and which now come under the act. People could face penalties for not complying with the act. I am concerned that we are creating a situation that is not enforceable, particularly in terms of the maintenance of fire alarms. Quite frankly, unless somebody writes on a battery when it was last changed to show that it could be 12 months overdue, who is going to be able to tell whether a battery has just been changed?

The risk of death from fire in a home is up to three times higher in homes without fire alarms compared to homes that are fitted with fire alarms. In Queensland, 78.1 per cent of all home fire deaths occur in homes without fire alarms. So there is a very strong basis for installing fire alarms in houses. Since June 2004 in Queensland, 19 people have died from house fires in homes that either did not have fire alarms or had smoke alarms that did not work. That was usually because the batteries were either removed or dead. The Department of Emergency Services and Queensland Treasury estimate that if Queensland were to achieve 100 per cent coverage of working fire alarms in domestic residences, there would be a saving of up to 106 lives and a saving of approximately $70 million in property losses and injury costs over 20 years.

The introduction in 1997 of mandatory mains connected smoke alarms in new or significantly renovated housing has seen smoke alarm coverage increase from 38.7 per cent of homes in 1996 to 84.2 per cent of homes in 2005. The minimum smoke alarm requirement is a nine-volt battery-powered smoke alarm in which the battery requires replacement annually. Smoke alarms are compulsory in South Australia, Victoria and New South Wales. As I said, the coalition has no real concerns with the legislation and will be supporting it.