

COUNTER-TERRORISM AND OTHER LEGISLATION AMENDMENT BILL 2015

Explanatory Notes

For

**Amendments to be moved during
consideration in detail by the Honourable
Jo-Ann Miller MP, Minister for Police, Fire
and Emergency Services and Minister for
Corrective Services**

Short title of the Bill

Counter-Terrorism and Other Legislation Amendment Bill 2015

Objectives of the amendments

The amendments to be moved during consideration in detail amend the Counter-Terrorism and Other Legislation Amendment Bill 2015 (the Bill) to give effect to the Government's response to the Legal Affairs and Community Safety Committee's (the Committee) report on the Bill.

The Committee's report on the Bill made four recommendations including that the Bill be passed. Recommendations 2 and 3 of the Committee's Report require legislative amendments to be made.

The Government Response supported Recommendation 2 and proposed that the Bill be amended to require the Minister to provide a report to Parliament within six months of the use of powers under the *Terrorism (Preventative Detention) Act 2005*.

The Government Response also supported Recommendation 3 and proposed that the Bill be amended to require the review to occur within 2 years of the commencement of the section, with a report on the outcome of the review required to be tabled within 3 years of commencement.

Achievement of the Objectives

Reporting requirements

Currently, section 743 (Monitor's annual report) of the *Police Powers and Responsibilities Act 2000* requires the Public Interest Monitor (PIM), as part of the PIM's annual report, to report on the use of preventative detention powers by the Queensland Police Service. The section also requires the Minister to table the PIM's annual report in the Legislative Assembly within 14 days after the Minister receives the report.

To ensure that Parliament is advised on the use of preventative detention powers in a timely way, in addition to the PIM's annual report, the Bill is to be amended to insert additional reporting requirements into the *Terrorism (Preventative Detention) Act 2005*. These reporting requirements will include the Commissioner of Police providing a report on the use of preventative detention powers to the Minister within three months of an application for a Preventive Detention Order being made. The amendments will also require the Minister to prepare a report on the use of preventative detention powers and table the report in the Legislative Assembly within six months of the application for a Preventive Detention Order being made.

Review of the Terrorism (Preventative Detention) Act 2005

Clause 14 of the Bill provides for a new section 83A (Review of Act) to be inserted into the *Terrorism (Preventative Detention) Act 2005*. The proposed section 83A requires the Minister to commence a review of the need for, and effectiveness of, the *Terrorism (Preventative Detention) Act 2005* within four years of the commencement of the new section 83A. Subsection 83A(b) requires the Minister to prepare a report on the outcome of the review and table the report in the Legislative Assembly within six years of section 83A commencing.

In response to Recommendation 3 of the Committee's Report, clause 14 of the Bill is to be amended requiring the Minister to commence the review within two years of the commencement of the new section 83A. Clause 14 is to be further amended to require the Minister to prepare a report on the outcome of the review and table the report in the Legislative Assembly within three years of the commencement of the new section 83A.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Estimated Cost for Government Implementation

There are no costs associated with the amendments.

Consistency with Fundamental Legislative Principles

The amendments to be moved during consideration in detail are consistent with fundamental legislative principles.

Consultation

The proposed amendments to be moved during consideration in detail have been made as a result of the Committee's examination of the Bill which included 3 written submissions on the Bill and public and departmental hearings.

NOTES ON PROVISIONS

Amendment 1 inserts new clause 12A (Insertion of new Part 6A) into the Bill. New Part 6A (Reporting Requirements) inserts new sections 76A to 76C into the *Terrorism (Preventative Detention) Act 2005*.

New section 76 (Application of part) provides that new Part 6A applies if an application is made for a Preventative Detention Order.

New Section 76B (Commissioner to report to Minister) sets out the timeframe and reporting requirements for the Commissioner's report to the Minister on the use of preventative detention powers. Subsections 76B(4) and (5) establish the circumstances when the Commissioner's report under section 76B may be included in the Commissioner's report under section 8R of the *Public Safety Preservation Act 1986*.

New section 76C (Minister to report to Parliament) sets out the time frame and report requirements for the Minister's report on the use of preventative detention powers. The section prescribes information that is to be included and excluded from the Minister's report and is intended to promote transparency by keeping the public informed and to ensure the Government is accountable to Parliament for the use of preventative detention powers. Subsections 76C(4) and (5) establishes the circumstances when the Minister's report under section 76C may be included in the Minister's report under section 8S of the *Public Safety Preservation Act 1986*.

Amendment 2 amends clause 14 (Insertion of new section 83A) of the Bill. This amendment replaces the timing for the Minister to commence the review of the *Terrorism (Preventative Detention) Act 2005* from within four years of the commencement of section 83A to within 2 years of the commencement of the section.

Amendment 3 also amends clause 14 (Insertion of new section 83A) of the Bill. This amendment replaces the timing for the Minister to cause a report on the outcome of the review of the *Terrorism (Preventative Detention) Act 2005* to be prepared and table such report in the Legislative Assembly from within 5 years of the commencement of section 83A to within 3 years of commencement of the section.