First Reading

Hon. AP FRASER (Mount Coot-tha—ALP) (Deputy Premier, Treasurer and Minister for State Development and Trade) (7.58 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Mr DEPUTY SPEAKER (Mr Wendt): Order! In accordance with standing order 131, the bill is now referred to the Industry, Education, Training and Industrial Relations Committee.

MINISTERIAL PAPERS

Health Regulations

Hon. GJ WILSON (Ferny Grove—ALP) (Minister for Health) (7.59 pm): I lay upon the table of the House two reports: first, a report regarding the exemption of the Health (Drugs and Poisons) Regulation 1996 and the Health Regulation 1996 from expiry under section 56A(4) of the Statutory Instruments Act 1992; and, second, the Health Practitioners Regulation National Law Amendment (Midwife Insurance Exemption) Regulation 2006.

Tabled paper: Letter, undated, from Hon. Geoff Wilson MP to the Clerk of the Parliament, requesting the tabling of a report under the s56A(4) of the Statutory Instruments Act 1992 in relation to the Health (Drugs and Poisons) Regulation 1996 and the Health Regulation 1996.

Tabled paper: Health Practitioner Regulation National Law Amendment (Midwife Insurance Exemption) Regulation 2011, No. 108/2011.

CRIMINAL ORGANISATION AMENDMENT BILL

Introduction and Referral to the Legal Affairs, Police, Corrective Services and Emergency Services Committee

Hon. PT LUCAS (Lytton—ALP) (Attorney-General, Minister for Local Government and Special Minister of State) (7.59 pm): I present a bill for an act to amend the Criminal Organisation Act 2009, the Crime and Misconduct Act 2001 and the Criminal Code for particular purposes and to make a regulation under the Criminal Organisation Act 2009. I table the bill and the explanatory notes. I nominate the Legal Affairs, Police, Corrective Services and Emergency Services Committee to consider the bill.

Tabled paper: Criminal Organisation Amendment Bill 2011.

Tabled paper: Criminal Organisation Amendment Bill 2011, explanatory notes.

Organised crime in Australia is a multibillion-dollar industry. The Australian Crime Commission conservatively estimates that serious and organised crime costs Australia between $10 and $15 billion every year or an estimated one to two per cent of GDP. The assets seized under Queensland confiscations legislation is further evidence of this. From January 2003 to 30 June 2011, the state seized $125 million in assets, $31.5 million of which was forfeited to the state.

The ACC describes opportunities for organised crime today as unprecedented due to increased globalisation, escalating cross-border movement of people, goods and money, emerging international markets and rapidly developing and converging technologies which provide a fertile operating environment for organised crime. It portrays organised crime as sophisticated, resilient, highly diversified and pervasive. Activities of high-threat, serious and organised criminal enterprises result in significant harm to the Australian community.

The Parliamentary Joint Committee on the Australian Crime Commission identified that serious and organised crime not only results in substantial economic cost to the Australian community but also operates at great social cost. Along with this are the emotional, physical and psychological costs to victims of organised crime, their families and communities.

048 It is widely recognised that there is a real level of fear in the community about bikies and their ability to inflict violent retribution with impunity. However, the state has had success in combating organised crime. Recently, a former bikie gang member was ordered to pay the state of Queensland $4.2 million in crime earnings and an additional $4.3 million in interest. But criminal organisations do all that is in their power to protect their interests and intimidate those who would provide evidence which sheds light on their criminal activities.

The Criminal Organisation Act 2009 commenced on 15 April 2010 and is designed to disrupt and restrict the activities of criminal organisations and their members and associates. Members of outlaw motorcycle gangs and other criminal organisations have been involved in activities such as attempted

murder, extortion, drug manufacturing and distribution and pose a threat to Queensland. In response to outlaw motorcycle gang violence in southern states, other states and territories around Australia have passed legislation aimed at disrupting the activities of criminal organisations.

The powers provided for in this act are necessary to send a clear message that Queensland will not be seen to be or to have become a safe haven for criminal organisations that may be tempted to move their operations from other states and territories. All states and territories have a form of legislation currently in force in respect of outlaw motorcycle gangs. When this legislation was first introduced, the Queensland government took the time to ensure the act represented the most robust legislation in the country, striking the proper balance between the rights of individuals and the safety of the community. The act explicitly provides that it is not the parliament's intention that powers under the act be exercised in a way that diminish the freedom of people to participate in advocacy, protests or industrial action.

I trust that many people will remember the shocking Sydney Airport attack when a bikie member was killed in a huge brawl with a rival club at the airport. It is these scenes that we need to ensure the Queensland community is protected from. The bill provides the Commissioner of Police with the tools necessary to obtain orders from the Supreme Court to declare organisations involved in criminal activity to be 'criminal organisations'. This declaration forms the basis on which the commissioner can apply to obtain further civil orders—

Mr Bleijie interjected.

Mr DEPUTY SPEAKER (Mr Wendt): Order! I remind the member for Kawana that he is not in his seat and that if he wishes to interject, he had better go back there.

Mr LUCAS: including orders against the organisation itself, such as the fortification orders—requiring the modification of the organisations' premises—against members of the criminal organisation, such as imposing prohibitions on members obtaining weapons licences or attending certain premises, and associates of the criminal organisation, such as prohibiting them from associating with other members of the organisation. Breaches of these civil orders result in criminal sanctions.

A significant component of the Criminal Organisation Act 2009 lies in the ability of the commissioner to apply under part 6 of the act to have certain informant information declared by the Supreme Court to be criminal intelligence. This intelligence then forms part of the evidence but may not be the only information relied on by the commissioner to seek an order declaring an organisation to be a criminal organisation. The effect of being declared to be criminal intelligence is that, among other things, the identity of the person giving the information as well as the information itself is kept confidential and disclosed only to the court. Under section 59 of the act, criminal intelligence is information which, if disclosed, could reasonably be expected to prejudice a criminal investigation; lead to the identity of confidential informants or covert police officers; or endanger a person's life or physical safety. Such an approach is justified on the basis that it is necessary to protect the identity of informants and operatives and ensure that such persons can continue to be a source of criminal intelligence information.

Part 6 of the act provides for significant judicial discretion and special safeguards where such applications are made. One such safeguard is that an informant affidavit must be provided by a police officer under section 76 of the act about the criminal intelligence supplied by an informant. This affidavit sets out the evidence provided to the police officer by the informant and the grounds on which the information is considered reliable.

Section 72 of the act provides the court with the discretion to critically assess the weight to be given to an informant's information and provides discretion to the court to balance the interests of protecting informants with the need to ensure fairness to the respondent.

Another significant safeguard is the Criminal Organisation Public Interest Monitor, or COPIM, whose role is in the nature of amicus curiae. To date, the commissioner may only rely on evidence provided by informants to Queensland police officers. The bill amends the act to ensure that the Commissioner of Police may rely on intelligence information provided to third-party agencies, including interstate law enforcement agencies. The harsh reality of organised crime is that it does not respect state or international borders. The investigation of organised crime can only work with the cooperation of law enforcement agencies. Often information is gathered from informants across a range of law enforcement agencies and this information is shared between the agencies. It is vital that the commissioner be able to use intelligence gathered by other agencies in support of applications under the act so that the courts have the maximum amount of information before them before they make any orders under the act.

I seek leave to incorporate the remainder of my speech in *Hansard*. I sought the permission of the Speaker.

Leave granted.

The amendments will also ensure the protection of the identity of informants of any agency whose information is used to support an application under the Act.

Section 64 in its current form requires that details of an informant's full criminal history be provided in the informant affidavit. The intention of the requirement contained in section 64 is to ensure that the court can properly weigh the credibility of an informant's evidence.

'Criminal history' is defined in the dictionary at schedule 2 of the Act. However, certain specific offending, if linked to dates or locations, can by virtue of the notoriety of the offences identify a person.

Therefore, new section 64 allows for an account of an informant's criminal history to be provided for, without providing the specific description of the offences or linking the convictions or charges to specific dates but linked to periods of time not exceeding seven years. This allows the court to have a reasonable idea of the proximity of the offending to the date of the application while preventing the history from identifying the informant.

To give further certainty to external agencies that the identities of their informants will be protected under the Act, the Bill explicitly provides that the information provided about an informant need not include the informant's name, address, current location, date of birth, or the position held by an informant in an organisation.

The Bill clarifies that officers of external agencies providing such informant intelligence to the court can not be asked to provide those details under examination-in chief, or cross examination.

In view of this, a balancing amendment is made to provide that information provided to an agency by an informant may not be declared to be criminal intelligence if the intelligence is not supported in a material particular by other information.

These amendments to the Criminal Organisation Act were approached with great caution given the High Court ruling in State of South Australia v Totani & Anor [201] HCA 39 which held certain provisions of the South Australian equivalent legislation to be constitutionally invalid and also the High Court decision in Wainohu v New South Wales [2010] HCA 24 which held the entire of the New South Wales equivalent Act to be constitutionally invalid.

There are fundamental differences between Queensland's Act and the South Australian and New South Wales Acts, and great care has been taken by this Government, as was taken when the Government introduced and amended the Dangerous Prisoners (Sexual Offences) Act 2003, to ensure that the amendments to the Act do not offend against the principle set out in Kable and the constitutional validity issues that flow from that case.

It is clear that these amendments are very practical in nature and will ensure that intelligence collected by third party agencies, that is, other than the Queensland Police Service, including relevant interstate agencies, can be used in Queensland to tackle criminal organisations operating in Queensland.

Given the importance of such law enforcement action to the people of Queensland, it is imperative that these amendments be passed by the House as a matter of priority this year.

I invite the Opposition to put the community before outlaw bikie gangs and stop protecting these criminals. I invite the Opposition to recognise the value in these amendments and support the Bill.

I commend the Bill to the House.

First Reading

Hon. PT LUCAS (Lytton—ALP) (Attorney-General, Minister for Local Government and Special Minister of State) (8.06 pm): I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

Mr DEPUTY SPEAKER (Mr Wendt): In accordance with standing order 131, the bill is now referred to the Legal Affairs, Police, Corrective Services and Emergency Services Committee.

~~BIOSECURITY BILL~~

~~Message from Governor~~

~~**Hon. TS MULHERIN** (Mackay—ALP) (Minister for Agriculture, Food and Regional Economies) (8.06 pm): I present a message from Her Excellency the Governor.~~

~~The Deputy Speaker (Mr Wendt) read the following message—~~

~~MESSAGE~~

~~BIOSECURITY BILL 2011~~

~~*Constitution of Queensland 2001, section 68*~~

~~I, PENELOPE ANNE WENSLEY, Governor, recommend to the Legislative Assembly a Bill intituled—~~

~~A Bill for an Act to provide for a flexible and responsive biosecurity framework to prevent or minimise adverse effects of exotic or endemic pests and diseases and contaminants on human health, social amenity, the economy and the environment, to repeal the Agricultural Standards Act 1994, the Apiaries Act 1982, the Diseases in Timber Act 1975, the Exotic Diseases in Animals Act 1981, the Land Protection (Pest Management) Act 2002, the Plant Protection Act 1989 and the Stock Act 1915, to amend the Chemical Usage (Agricultural and Veterinary) Control Act 1988 and the Fisheries Act 1994, and to make minor and consequential amendments of the Acts mentioned in schedule 3.~~

~~GOVERNOR~~

~~(sgd)~~

~~Date: 25 OCT 2011~~

~~*Tabled paper:* Message, dated 25 October 2011, from Her Excellency the Governor recommending the Biosecurity Bill 2011.~~