

*I hereby certify that this PUBLIC BILL has finally passed the
Legislative Assembly of Queensland.*



Legislative Assembly Chamber,
Brisbane,

M. A. Ries.
The Clerk of the Parliament.
20 November 2015

In the name and on behalf of the Queen, I assent to this Bill.

Pauline Jones
Government House,
Brisbane,

20 November 2015



Queensland

No. 27 of 2015

A BILL for

**An Act to amend the Fire and Emergency Services Act 1990, the Police
Service Administration Act 1990, the Public Safety Preservation Act 1986,
the Terrorism (Preventative Detention) Act 2005 and the Weapons Act 1990
for particular purposes**



Queensland

Counter-Terrorism and Other Legislation Amendment Bill 2015

Contents

		Page
Part 1	Preliminary	
1	Short title	4
2	Commencement	4
Part 2	Amendment of Fire and Emergency Services Act 1990	
3	Act amended	4
4	Amendment of sch 6 (Dictionary)	4
Part 3	Amendment of Police Service Administration Act 1990	
5	Act amended	5
6	Insertion of new ss 9.7 and 9.8	5
	9.7 Protection from liability of commissioners for police service reviews	5
	9.8 Other protection from liability for a review	5
7	Insertion of new pt 11, div 8	6
	Division 8 Transitional provision for Counter-Terrorism and Other Legislation Amendment Act 2015	
	11.16 Approved agency and law enforcement agency during interim period	6
Part 4	Amendment of Public Safety Preservation Act 1986	
8	Act amended	7
9	Insertion of new s 3A	7
	3A Extraterritorial application of Act.	7
Part 5	Amendment of Terrorism (Preventative Detention) Act 2005	
10	Act amended	9
11	Replacement of s 6 (Extraterritoriality of terrorist act no barrier) .	9
	6 Extraterritorial application of Act.	9
12	Amendment of s 41 (Power to enter premises)	9
12A	Insertion of new pt 6A.	10

Contents

	Part 6A	Reporting requirements	
	76A	Application of part	10
	76B	Commissioner to report to Minister	10
	76C	Minister to report to Parliament	12
13		Amendment of s 83 (Sunset provision)	13
14		Insertion of new s 83A	14
	83A	Review of Act	14
Part 6	Amendment of Weapons Act 1990		
15		Act amended	14
16		Amendment of s 2 (Application of Act)	14
17		Insertion of new pt 8, div 6	15
	Division 6	Transitional provision for Counter-Terrorism and Other Legislation Amendment Act 2015	
	192	Declaration about officers of Customs during interim period 15	

2015

A Bill

for

An Act to amend the *Fire and Emergency Services Act 1990*, the *Police Service Administration Act 1990*, the *Public Safety Preservation Act 1986*, the *Terrorism (Preventative Detention) Act 2005* and the *Weapons Act 1990* for particular purposes

[s 1]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Counter-Terrorism and Other Legislation Amendment Act 2015*.

2 Commencement

Section 6 commences on a day to be fixed by proclamation.

Part 2 Amendment of Fire and Emergency Services Act 1990

3 Act amended

This part amends the *Fire and Emergency Services Act 1990*.

4 Amendment of sch 6 (Dictionary)

Schedule 6, definition *occupier*—

omit, insert—

occupier, of premises, means—

- (a) the owner, lessee or person apparently in charge of the premises; or
- (b) a person who has the care, management or supervision of the premises or who is conducting a business at the premises.

Part 3 **Amendment of Police Service Administration Act 1990**

5 Act amended

This part amends the *Police Service Administration Act 1990*.

6 Insertion of new ss 9.7 and 9.8

After section 9.6—

insert—

9.7 Protection from liability of commissioners for police service reviews

- (1) This section applies to each of the following (*a protected person*)—
 - (a) a commissioner for police service reviews;
 - (b) a person acting at the direction of a commissioner for police service reviews.
- (2) A protected person is not liable to an action, suit or proceeding for an act done or omitted to be done by the person in good faith and without negligence in the exercise or purported exercise of a function or power conferred by this part.

9.8 Other protection from liability for a review

- (1) A person does not incur civil liability for engaging, or for the result of engaging, in any of the following conduct in good faith and without negligence—
 - (a) applying for or otherwise being involved in a review of a decision under this part;
 - (b) giving oral, written or other matter to a commissioner for police service reviews, or a person acting at the direction of a

[s 7]

commissioner for police service reviews, for
a review of a decision under this part.

(2) In this section—

civil claim, in relation to conduct or the result of
engaging in conduct—

(a) means a claim based in tort, contract or
another form of action in relation to the
conduct or result, including, for example,
breach of statutory duty or defamation; and

(b) for a fatal injury, includes a claim for the
deceased's dependants or estate.

civil liability, in relation to a person, means
liability of any type for the payment of an amount
by the person because of a civil claim.

7 Insertion of new pt 11, div 8

Part 11—

insert—

Division 8 Transitional provision for Counter-Terrorism and Other Legislation Amendment Act 2015

11.16 Approved agency and law enforcement agency during interim period

(1) The immigration and border protection
department is taken, during the interim period, to
have been—

(a) an approved agency under part 10, division
1A; and

(b) a law enforcement agency under part 10,
division 1A.

(2) In this section—

immigration and border protection department means the Commonwealth department in which the following laws are administered—

- (a) the *Australian Border Force Act 2015* (Cwlth);
- (b) the *Customs Act 1901* (Cwlth), other than parts XVB and XVC;
- (c) the *Migration Act 1958* (Cwlth).

interim period means the period starting on 1 July 2015 and ending on the commencement of the *Police Legislation Amendment Regulation (No. 1) 2015*.

Part 4 Amendment of Public Safety Preservation Act 1986

8 Act amended

This part amends the *Public Safety Preservation Act 1986*.

9 Insertion of new s 3A

After section 3—

insert—

3A Extraterritorial application of Act

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.
- (3) A commissioned officer may make a declaration under section 5 that an emergency situation

[s 9]

exists, in respect of an area within or outside Queensland, if the officer is satisfied on reasonable grounds that an emergency situation has arisen or is likely to arise in Queensland.

- (4) The commissioner or deputy commissioner may, under section 8A—
 - (a) appoint a police officer to be a terrorist emergency commander if the commissioner or deputy commissioner is satisfied on reasonable grounds that—
 - (i) an emergency situation has arisen or is likely to arise in Queensland; and
 - (ii) the emergency situation results from or may result from, or may lead to, 1 or more terrorist acts at 1 or more terrorist emergency sites within or outside Queensland; or
 - (b) appoint a terrorist emergency forward commander for a terrorist emergency site within or outside Queensland.
- (5) A power relating to an emergency situation, terrorist emergency or CBR emergency may be exercised in relation to an entity, place or thing within or outside Queensland.
- (6) A declaration under section 8G of an area surrounding a moving activity—
 - (a) may be made even if the area is outside Queensland at the time of the declaration; and
 - (b) is not affected if the area moves outside Queensland while the declaration is in effect.
- (7) Subsections (3) to (6) do not limit subsection (2).

Part 5 **Amendment of Terrorism (Preventative Detention) Act 2005**

10 **Act amended**

This part amends the *Terrorism (Preventative Detention) Act 2005*.

11 **Replacement of s 6 (Extraterritoriality of terrorist act no barrier)**

Section 6—

omit, insert—

6 Extraterritorial application of Act

- (1) This Act applies—
 - (a) within Queensland; and
 - (b) in the adjacent area for Queensland.
- (2) The powers and functions conferred under this Act in relation to a terrorist act or suspected terrorist act may be exercised whether the terrorist act or suspected terrorist act has been, is being, or is likely to be committed in Queensland or outside Queensland.
- (3) In this section—

adjacent area, for Queensland, has the meaning given under the *Crimes at Sea Act 2001*, schedule, clause 14.

12 **Amendment of s 41 (Power to enter premises)**

- (1) Section 41(2), ‘house’—

omit.

- (2) Section 41(3)—

[s 12A]

omit, insert—

(3) In this section—

boat see the *Police Powers and Responsibilities Act 2000*, schedule 6.

dwelling—

- (a) includes a vehicle, or a room in a hotel, motel, boarding house or club, in which people ordinarily retire for the night; but
- (b) for a dwelling that is a boat—does not include an external deck of the boat.

premises see the *Police Powers and Responsibilities Act 2000*, schedule 6.

12A Insertion of new pt 6A

After section 76—

insert—

Part 6A Reporting requirements

76A Application of part

This part applies if an application is made to the issuing authority for a preventative detention order for a person.

76B Commissioner to report to Minister

- (1) Within 3 months after the application is made, the commissioner must—
 - (a) prepare a report under this section; and
 - (b) give the Minister a copy of the report.
- (2) The report must state—

- (a) whether a preventative detention order was made for the person on the application; and
- (b) if a preventative detention order was made for the person—
 - (i) whether the preventative detention order was an initial order or a final order; and
 - (ii) whether the person was taken into custody under the preventative detention order and, if so, how long the person was detained for under the order; and
 - (iii) if the commissioner is aware a complaint was made to the Crime and Corruption Commission or the ombudsman about the person's detention under the preventative detention order—particulars of the complaint; and
 - (iv) if the person brought a legal proceeding challenging the validity of the preventative detention order—whether the court decided the order was invalid; and
 - (v) any criminal offence with which the person has been charged since the preventative detention order was made; and
 - (vi) whether an application was made for a prohibited contact order in relation to the person's detention under the preventative detention order.
- (3) Also, the report may include any other information the commissioner considers appropriate.

[s 12A]

- (4) If the application was made in connection with a terrorist emergency declared under the *Public Safety Preservation Act 1986*, the report may form part of the commissioner's report about the terrorist emergency.
- (5) In this section—
commissioner's report, about a terrorist emergency, means the report about the terrorist emergency the commissioner must give the Minister under the *Public Safety Preservation Act 1986*, section 8R.

Note—

See also the *Police Powers and Responsibilities Act 2000*, section 743 for the PIM's obligation to report to the Minister on the use of preventative detention orders and prohibited contact orders.

76C Minister to report to Parliament

- (1) Within 6 months after the application is made, the Minister must—
 - (a) prepare a report under this section; and
 - (b) table a copy of the report in the Legislative Assembly.
- (2) The report—
 - (a) must include all the information in the report given to the Minister under section 76B; and
 - (b) may include any other information the Minister considers appropriate.
- (3) However, the report must not include information that could reasonably be expected to—
 - (a) prejudice the investigation of a contravention or possible contravention of the law in a particular case; or

- (b) prejudice a prosecution or another matter before a court; or
 - (c) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or
 - (d) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
 - (e) identify, or lead to the identification of, a person who has been, is being, or is to be, investigated for a contravention or possible contravention of the law; or
 - (f) endanger a person's life or physical safety.
- (4) If the application was made in connection with a terrorist emergency declared under the *Public Safety Preservation Act 1986*, the report may form part of the Minister's report about the terrorist emergency.
- (5) In this section—
- Minister's report***, about a terrorist emergency, means the report about the terrorist emergency the Minister must table in the Legislative Assembly under the *Public Safety Preservation Act 1986*, section 8S.

13 Amendment of s 83 (Sunset provision)

Section 83(1), '10'—

omit, insert—

[s 14]

14 Insertion of new s 83A

After section 83—

insert—

83A Review of Act

The Minister must—

- (a) within 2 years after the commencement, start a review of the need for, and effectiveness of, this Act; and
- (b) within 3 years after the commencement—
 - (i) cause a report to be prepared on the outcome of the review; and
 - (ii) table the report in the Legislative Assembly.

Part 6 Amendment of Weapons Act 1990

15 Act amended

This part amends the *Weapons Act 1990*.

16 Amendment of s 2 (Application of Act)

- (1) Section 2(1)(c)—

omit, insert—

- (c) who is an officer of Customs in the Australian Border Force in relation to the person's possession or use of a weapon when performing the duties of an officer; or

- (2) Section 2(9)—

insert—

Australian Border Force see the *Australian Border Force Act 2015* (Cwlth), section 4(1).

officer of Customs see the *Customs Act 1901* (Cwlth), section 4(1).

17 Insertion of new pt 8, div 6

Part 8—

insert—

**Division 6 Transitional provision for
Counter-Terrorism and
Other Legislation
Amendment Act 2015**

**192 Declaration about officers of Customs during
interim period**

- (1) This section applies to a person who was an officer of Customs in the Australian Border Force during the interim period or a part of the interim period.
- (2) This Act is taken not to have applied to the person in relation to the person's possession or use of a weapon when performing the duties of an officer during the interim period or the part of the interim period.
- (3) In this section—

Australian Border Force see the *Australian Border Force Act 2015* (Cwlth), section 4(1).

interim period means the period starting on 1 July 2015 and ending on the commencement.

officer of Customs see the *Customs Act 1901* (Cwlth), section 4(1).

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Authorised by the Parliamentary Counsel