

CHEMICAL, BIOLOGICAL AND RADIOLOGICAL EMERGENCY POWERS AMENDMENT BILL 2003

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Bill

The objective of the Bill is to amend the *Public Safety Preservation Act 1986* in relation to powers for chemical, biological and radiological emergencies that may put the life or health of individuals at risk and which may spread if not contained.

Reasons for the objectives and how they will be achieved

Chemical, biological and radiological (CBR) incidents cover a wide range of events from accidental chemical spills through to terrorist acts resulting in the release of biological agents that have the capacity to spread and cause significant casualties. Major work has occurred over the past two years to improve the level of preparedness in Queensland to deal with a possible chemical, biological or radiological emergency.

On 14 February 2002, the *State of Queensland Multi-Agency Response Plan to Chemical, Biological, Radiological Incidents* was endorsed by the Commissioner of the Police Service and the Directors-General of the Departments of Emergency Services and Health. The multi-agency CBR plan is contained within the *State Counter Disaster Plan* as a 'Threat Specific Plan' and is supported by the State's *Chemical/HAZMAT Plan*, the *Biological Disaster Plan* and the *Radiological Disaster Plan*.

Despite this level of operational preparedness, advice provided by the Solicitor-General stated that existing legislative provisions would not be sufficient to enable emergency responders to detain persons and require them to undergo forcible decontamination and/or treatment in order to contain the spread of a CBR substance or its effect. The objective of the

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Bill is to address this inadequacy within a legislative framework that subjects the use of the powers to stringent controls and safeguards.

The Bill enables a police officer of rank Assistant Commissioner or above (the CBRE coordinator) to declare a CBR emergency if satisfied that something involving a substance that is likely to be a CBR substance has happened, that the substance or its effect poses a serious risk to the life or health of individuals, that the substance may spread if not contained, that a significant coordinated effort is required to respond, and using existing powers would not enable the response to be effective.

On the declaration of a CBR emergency, the CBRE coordinator may authorise an emergency responder, other than a health officer, to exercise the CBR emergency powers. Only the medical controller may authorise health officers to exercise CBR emergency powers. The officers who may be authorised to use particular powers are:

- power to detain – police officers;
- power to give a person directions in order to restrict movement – police officers, fire officers, health officers, and ambulance officers;
- power to give a person directions about animals – veterinary officers;
- power to decontaminate – health officers, fire officers and veterinary officers (animals only);
- power to medically examine and treat – health officers and ambulance officers;
- power to seize property – police officers;
- powers to destroy seized property – fire officers, health officers, police officers, and veterinary officers (animals only);
- power to require name and address – police officers;

The CBRE coordinator must promptly inform the Minister for Police of the declaration of a CBR emergency, who must end the emergency as soon as the Minister is satisfied it is no longer necessary for emergency responders to continue to exercise CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the emergency. The CBR emergency automatically ends after 24 hours unless it is ended sooner by the Minister or extended by the Minister and the Premier.

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The Minister and Premier may extend the period of the CBR emergency for up to seven days if satisfied that a CBR emergency has happened and that it is necessary for emergency responders to continue to exercise CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the emergency. The CBR emergency automatically ends after seven days unless it is ended sooner by the Minister and Premier or extended by regulation.

However, the continued exercise of the detention power beyond the first 48 hours of the CBR emergency is only lawful if approved by a Supreme Court judge. The Commissioner of the Police Service must make an application after the first 24 hours and before the first 48 hours of the CBR emergency has elapsed, to obtain judicial sanction for the detention of persons past this time.

The CBR emergency may be extended beyond the end of the first seven days by regulation for a maximum of 14 day at a time.

The powers are subject to extensive safeguards and accountability measures. These include:

- setting a high threshold for the definition of a CBR emergency and therefore the exercise of the CBR emergency powers including that something involving CBR matter must already have occurred and that existing powers are not sufficient to deal with the CBR emergency;
- requiring the CBRE coordinator to be an officer of the rank of Assistant Commissioner or above;
- closely defining the CBR emergency powers, who may use the powers, under what conditions the powers may be exercised and the obligations of persons exercising the powers;
- requiring the CBR emergency to be ended as soon as the exercise of CBR emergency powers is no longer necessary to protect life or health at serious risk because of the CBR substance involved;
- requiring the CBR emergency powers to be used only for so long as necessary to ensure that the CBR substance involved does not pose a serious risk to the life or health of individuals;
- requiring a written record to be kept of property seized;
- providing for judicial scrutiny of the exercise of the detention power by enabling any person detained to apply through a representative for release from detention, and requiring the

CBRE coordinator to satisfy a judge of the Supreme Court that continued detention beyond the first 48 hours of a CBR emergency is required;

- enabling the Public Interest Monitor to appear at an application by the Commissioner of the Police Service for the continued exercise of the detention power beyond the first 48 hours of the CBR emergency;
- providing for Parliamentary scrutiny of the use of CBR emergency powers by requiring the Minister for Police to report to Parliament on any CBR emergency irrespective of the duration of the emergency, and also requiring extension of a CBR emergency beyond seven days to be by regulation, which is open to disallowance by Parliament;

Administrative cost to Government for implementation

The implementation of specific legislative provisions to clarify and enhance the powers of emergency responders to effectively manage a CBR emergency will not have any direct financial implications.

Consistency with fundamental legislative principles

The Bill infringes a number of fundamental legislative principles.

Sufficient regard to rights and liberties of individuals

Although the CBR emergency powers are serious infringements of civil liberties, the powers sought are considered essential in order to effectively respond to a CBR emergency and protect the safety of the public at large. The civil liberties of individuals are considered sufficiently protected by the number of stringent safeguards in place to prevent abuse of the CBR emergency powers. It is submitted that this therefore strikes an appropriate balance between individual rights and protecting the broader community.

Sufficient regard to the institution of Parliament

The Bill includes two provisions which demonstrate that sufficient regard has been given to the institution of Parliament. First, there is a requirement for a report on the CBR emergency to be given to Parliament within six months of the CBR emergency ending, regardless of how long the CBR emergency lasts. Second, if the emergency lasts more than seven

days, a regulation extending the period of the emergency is open to disallowance by the Parliament.

Delegation of administrative power only in appropriate cases and to appropriate persons

The Bill provides that the CBRE coordinator, who is a police officer of the rank of Assistant Commissioner or above, may delegate the power to authorise officers to exercise the CBR emergency powers to certain high level emergency responders. These persons include the fire controller (Queensland Fire and Rescue Service), ambulance controller (Queensland Ambulance Service) and chief veterinary officer (Department of Primary Industries). Only the medical controller may authorise health officers to use the CBR emergency health powers. Given the nature of a CBR emergency where there is a multi-agency response, it is appropriate that the power to authorise use of the CBR emergency powers is delegable.

Does not confer immunity from proceeding or prosecution without adequate justification

Under the existing liability provision of the *Public Safety Preservation Act 1986*, police officers and persons acting in accordance with police directions are afforded protection from liability for things done or omitted to be done under the Act in good faith and without negligence. The Bill extends this provision to provide the same protection to non-police emergency responders in a CBR emergency. Given the nature and potential size of a CBR emergency, this immunity is considered to be justifiable in the circumstances.

Consultation

Consultation has taken place with relevant government agencies including the Department of Health, the Department of Primary Industries, the Department of Transport, the Environmental Protection Agency, the Chief Justice, the Public Interest Monitor and the Crown Solicitor.

NOTES ON PROVISIONS

Clause 1 states the short title of the Act.

Clause 2 states that the Act amends the *Public Safety Preservation Act 1986*.

Clause 3 amends the title of the Act to reflect the amendments in the Bill.

Clause 4 amends the definition section of the *Public Safety Preservation Act 1986* to include a number of words relating to CBR emergencies, and to relocate the dictionary to a schedule.

Clause 5 inserts a new section 4A, which states that notes are part of the Act.

Clause 6 omits section 5(2) because it is redundant as the term “incident coordinator” is already defined in section 5(1), renumbers the subsections and inserts a new subsection (4). This subsection provides that if an emergency situation is later declared to be a CBR emergency, the declaration of the emergency situation has no effect for the period of the CBR emergency. This amendment seeks to ensure that a CBR emergency takes priority over an emergency situation and that once the CBR emergency has ended i.e. the CBR emergency powers are no longer needed, the powers under an emergency situation will still be available to police if required.

Clause 7 amends section 7 regarding the cross-references to section 5.

Clause 8 clarifies terms used with respect to certain directions given by the incident coordinator, namely a resource surrender direction, resource operator direction and help direction. Specific penalties are included for failure to comply with these types of directions. However, to ensure the safety of persons, it is also provided that a resource operator direction or a help direction must not be given if doing so would expose the person to imminent danger.

Clause 9 seeks to ensure that a person absent from employment because of a CBR emergency is not disadvantaged with respect to his or her employment.

Clause 10 clarifies who is able to seek compensation for personal injury. The intended effect of clause 10 is to ensure that compensation may only be sought for injuries sustained by persons acting under a resource operator

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direction or help direction given by the incident coordinator, the CBRE coordinator, or any other police officer acting on the instructions of the incident coordinator or the CBRE coordinator.

Clause 11 amends the title of section 11 to include compensation for destruction of property because of a CBR emergency. The intended effect of clause 11 is to clarify who, and under what conditions, a person may apply for an *ex gratia* payment for financial loss resulting from the use of, damage to, or destruction of property during an emergency situation or CBR emergency.

Clause 12 renumbers and relocates sections 9 to 11 to new sections 44 to 46 in part 4 of the Act.

Clause 13 inserts a new part 3 into the Act titled “Part 3 - Chemical, Biological and Radiological Emergencies”. This part details the CBR emergency powers and process by which they may be exercised.

New Section 9 states Parliament’s intention with respect to the use of the CBR emergency powers. The reason for explicitly stating Parliament’s intention is to make it clear that the powers are only to be used when existing powers available to persons responding to something that has happened in which a CBR substance is likely to be involved, are inadequate. Furthermore, the powers may only be exercised for so long as it is necessary in the circumstances to ensure that the CBR substance involved does not pose a serious risk to the life or health of individuals.

New Section 10 ensures that declaration of a CBR emergency does not prevent the declaration of a state of disaster or another emergency and that a declaration of a state of disaster or another emergency does not prevent the CBR emergency powers from being exercised.

New Section 11 ensures that use of CBR emergency powers does not prevent use of other powers available to emergency responders and public service officers. New section 11 gives the CBRE coordinator the ability to prioritise exercise of CBR emergency powers over the exercise of other powers to enable operational efficiency. Examples are included to demonstrate how this may work.

New Section 12 describes how a CBR emergency may be declared and by whom. Only a Queensland police officer of the rank of Assistant Commissioner or above (CBRE coordinator) may declare a CBR emergency. The intended effect is to demonstrate the serious nature of the CBR emergency powers and that only Queensland police officers of a high rank are entitled to trigger them.

Under subsection (1), a CBR emergency may only be declared if the five criteria stipulated are met:

- something involving a substance that is likely to be a CBR substance (CBR incident) has happened. The intended effect is that the CBR emergency powers are not to be available prior to an incident actually occurring. Existing powers available to the incident coordinator under the *Public Safety Preservation Act 1986*, part 2 or to emergency responders under other Acts are considered sufficient to manage an imminent incident. The use of the word “likely” is necessary however, as it may be some time after the initial awareness that something involving a CBR substance has happened before the exact nature of the CBR substance can be accurately identified; and
- the substance, or the effect of the substance, poses a serious risk to the life or health of individuals at risk. The inclusion of the words “serious risk” demonstrates that minor risks to health are not sufficient to trigger use of the powers; and
- the substance, or the effect of the substance, may spread if not contained. This criterion is extremely important, and is intended to ensure that the CBR emergency powers will only be available to contain substances which if allowed to spread throughout the wider community, would pose a serious risk to the life or health of persons not already affected by the substance. The need to limit this spread is the primary basis for the necessity to detain. Biological substances are most likely to be of this nature; and
- a significant coordinated effort by emergency responders is necessary to adequately respond to the incident. This terminology was adopted from the definition of “emergency” used by Emergency Management Australia, Australia’s federal emergency management agency. The intended effect is to project the concept of scale in relation to responding to the incident; and
- using powers available to an incident coordinator under this Act or to someone else under another Act would not enable emergency responders to effectively deal with the incident. The intended effect is to make it patently clear that the CBR emergency powers are powers of last resort and are to be used only if absolutely necessary.

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Subsections (2), (3) and (4) require the CBRE coordinator to make immediate efforts to contact the Minister for Police, or if the Minister is not readily contactable, to inform the Premier, or next most senior Minister who is available if neither the Minister nor Premier are contactable, that a CBR emergency has been declared. The intended effect is to ensure that at the earliest stage possible, Ministerial sanction is obtained for calling a CBR emergency and using the CBR emergency powers.

Subsection (5) requires the CBRE coordinator to document the time at which a CBR emergency is declared. The intended effect is to ensure that this written record may be used in any subsequent court proceedings for evidentiary purposes (refer to section 18 as amended, now new section 48.)

Subsection (6) states that a CBR emergency automatically expires after 24 hours unless it is ended sooner (see new section 15 for when a CBR emergency must be ended), or extended by the Minister and the Premier (see new section 13).

New Section 13 describes how a CBR emergency may be extended by the Minister and the Premier beyond the first 24 hours up to a period of seven days from the time the emergency was first declared by the CBRE coordinator. The Minister and the Premier may only agree to extend the CBR emergency if they are satisfied that a CBR emergency has happened and that it is necessary for emergency responders to continue to exercise CBR emergency powers beyond the first 24 hours to protect life or health at serious risk because of the CBR substance. The CBR emergency automatically expires after seven days unless the emergency is ended sooner (see new section 15) or is extended by regulation (see new section 14).

New Section 14 describes how a CBR emergency may be extended by regulation beyond the first seven days up to a period of 14 days from the time the emergency was first declared by the CBRE coordinator. The CBR emergency automatically expires after 14 days unless the emergency is repealed, ended sooner under new section 15, or further extended by regulation for periods of up to 14 days at a time. The inclusion of subsections (2) and (5) is to ensure that the regulations commence on the day they are made rather than when they are notified or published in the gazette as prescribed under the *Statutory Instruments Act 1992*. The inclusion of subsection (6) is to ensure that regulatory impact statements are not required prior to making the regulations.

New Section 15 states a CBR emergency must be ended as soon as a relevant person is satisfied that it is no longer necessary for emergency

responders to continue to exercise the CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the emergency. The relevant persons are the CBRE coordinator, the Minister notified of the declaration of the emergency, or the Minister and the Premier, depending on what stage the CBR emergency is at. The purpose of new section 15 is to make it abundantly clear that CBR emergency powers are not to be used beyond the time for which they are strictly necessary.

Subsection (2) requires the CBRE coordinator to promptly notify emergency responders of the ending of the CBR emergency and subsection (3) requires the CBRE coordinator to notify the ending of the CBR emergency and when it ended by gazette notice. The intended effect of this subsection is to provide greater transparency by notifying the public of the end of the emergency.

Subsection (4) provides that a regulation extending or further extending the period of the CBR emergency expires when the CBR emergency ends. The intended effect of this subsection is to provide a fast and efficient method for ending the regulation.

New Section 16 ensures that it is clear that the CBRE coordinator is the Queensland police officer who declares the CBR emergency and also any Queensland police officer who subsequently performs the functions of the CBRE coordinator. This guarantees that a person is acting in the role of CBRE coordinator at all times during a CBR emergency.

New Section 17 states that the CBRE coordinator is responsible for the overall management and control of the response to a CBR emergency. To this end, the CBRE coordinator has an overarching direction-making power about the circumstances in which powers available to emergency responders may be exercised.

New Section 18 describes the powers of the CBRE coordinator on the declaration of a CBR emergency. These include the powers available to police officers under new section 23, the powers an incident coordinator has in an emergency situation under part 2 of the Act, and the power to authorise the exercise of powers available to an emergency responder.

New Section 19 enables a CBRE coordinator to authorise police officers, ambulance officers, fire officers and veterinary officers to exercise CBR emergency powers (CBRE officers). Subsection (2) sets out the powers of the medical controller, including the power to authorise health officers to exercise CBR emergency powers available to authorised health officers (i.e.

CBRE health officers). Subsection (3) enables authorisations to be general or limited, be given on condition, and be given orally or in writing, although if given orally must be reduced to writing as soon as practicable. Subsection (4) enables the CBRE coordinator to delegate to other high level emergency responders namely the ambulance controller, fire controller and chief veterinary officer, the power to authorise ambulance officers, fire officers and veterinary officers respectively, to exercise appropriate CBR emergency powers.

New Section 20 describes the powers available to CBRE ambulance officers namely the treatment power and the power to give directions to restrict movement.

New Section 21 describes the powers available to CBRE fire officers namely the decontamination power, the property destruction power and the power to give directions to restrict movement.

New Section 22 describes the powers available to CBRE health officers namely the decontamination power, the property destruction power, the treatment power and the power to give directions to restrict movement.

New Section 23 describes the powers available to CBRE police officers namely the detention power, the property seizure power, the property destruction power, the identity power and the power to give directions to restrict movement.

New Section 24 describes the powers available to CBRE veterinary officers namely the decontamination power, the property destruction power, and the power to give directions about animals.

New Section 25 states that a CBRE police officer may seize property, the purposes for which it may be seized, and what may be done to exercise the power.

New Section 26 states that various CBRE officers may destroy seized property, prohibits destruction of seized property that may reasonably be decontaminated, and also prohibits the destruction of seized property unless relevant expert advice has been obtained.

New Section 27 enables a CBRE police officer to obtain the name, address and other information from persons, but confines use of the information to specified purposes.

New Section 28 describes who may exercise the power to decontaminate, and what the power includes. A CBRE health officer may decontaminate a person or property (not an animal) for biological and radiological

substances. A CBRE fire officer may decontaminate a person or property (not an animal) for chemical substances and may only decontaminate a person in relation to biological or radiological substances if approval has been given by the medical controller. This reflects operational reality. Because of the circumstances of the emergency it is expected that any approval from the medical controller will be given orally. A CBRE veterinary officer may only decontaminate animals.

New Section 29 describes who may exercise the power to medically examine and treat, and what the power includes. Only CBRE ambulance officers or CBRE health officers may exercise this power. Subsection (3) is included to provide a chain of command whereby exercise of the power by a nurse, ambulance officer, or non-government doctor is subject to any directions given by the medical controller or a government doctor.

New Section 30 provides that if a medical controller or an authorised doctor is satisfied that allowing a person to leave without medical treatment will pose a serious risk to the life or health of individuals not already affected by the CBR substance involved in the emergency, then it is lawful for a CBRE ambulance officer or a CBRE health officer to treat that person even if the person refuses treatment. Subsection (4) restates the fundamental right of persons to refuse medical treatment however, only so far as that it is not related to the CBR substance involved in the emergency.

New Section 31 enables CBRE, i.e. authorised emergency responders other than a CBRE veterinary officer to direct persons to go to, remain at, or stay out of an area. CBRE veterinary officers have the power to direct a person to take an animal to, or leave an animal at, a nominated place. Unless the person has a reasonable excuse for failing to comply with the direction, non-compliance is an offence punishable by 40 penalty units or 1 year's imprisonment.

New Section 32 describes the power to detain and limits the exercise of the power to certain specified purposes. The power to detain may only be exercised by the CBRE coordinator and CBRE police officers.

New Section 33 states that it is only lawful to detain persons in a CBR emergency for more than 48 hours after the emergency has been declared if a Supreme Court judge approves. The intended effect of this section is to provide an additional safeguard on the exercise of the detention power by requiring judicial sanction to exercise the power for extended periods.

New Section 34 describes the application process which the Commissioner of the Police Service must undertake to obtain judicial

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sanction to lawfully detain people beyond the first 48 hours of a CBR emergency. The application must be made before the first 48 hours of the emergency has expired. Subsection (4) requires the Commissioner to immediately notify the Public Interest Monitor under the *Police Powers and Responsibilities Act 2000* or *Crime and Misconduct Act 2001* of the application. Subsection (5) gives the Monitor similar powers to those which the Monitor has under these two Acts. The Monitor may present questions for the applicant to answer, examine or cross-examine any witnesses, and make submissions on the appropriateness in the public interest of granting the application.

New Section 35 describes the obligations and powers of the Supreme Court judge in considering the application by the Commissioner of the Police Service for approval to exercise the detention power beyond the first 48 hours of a CBR emergency.

Subsection (2) requires the judge to approve the application only if satisfied that the continued use of the detention power is reasonably necessary to prevent a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency. The intended effect of this subsection is to demonstrate that the detention power should only be continued where the risk to life or health is more than an insignificant risk.

Subsection (3) provides that where the judge has not made a decision by the time the first 48 hours of the CBR emergency has elapsed, that it is lawful for the detention power to continue to be exercised until the application is finally decided. The intended effect of this subsection is to provide emergency responders with a degree of certainty regarding the exercise of the detention power pending a judicial decision.

New Section 36 provides the Commissioner of the Police Service with a right to appeal to the Court of Appeal against a refusal by a Supreme Court judge to approve the continued use of the detention power beyond the first 48 hours of a CBR emergency. Subsection (2) ensures that upon filing the appeal the decision of the Supreme Court judge is stayed until the Court of Appeal decides the appeal. The intended effect of this subsection is to provide emergency responders with a degree of certainty regarding the exercise of the detention power pending the outcome of an appeal.

New Section 37 states that sections 37 to 40 in “Subdivision 3 – Other provisions about detention” only apply to a person who is detained under the new part 3 of the Act.

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New Section 38 places certain obligations on the CBRE coordinator regarding a person detained because of a CBR emergency. These obligations include notifying a person of the person's right to apply for release and how to apply, of the person's right to consult a lawyer, and that detention beyond the first 48 hours requires the approval of a Supreme Court judge. The person's next of kin or someone else nominated by the person must also be notified of the person's detention, the person's rights, how to obtain information about the person and who to contact for this information. The CBRE coordinator must also make any reasonably necessary arrangements in the interest of the person's welfare. Subsection (2) requires that these arrangements are subject to any directions given by the medical controller or a CBRE health officer.

New Section 39 sets out the process by which a person detained because of the CBR emergency may apply individually to a Supreme Court judge for release from detention. The application may be made anytime after a person is detained, and regardless of whether a Supreme Court judge has approved continued detention on application by the Commissioner of the Police Service. Under subsection (6), the judge may make an order ending a person's detention only if the judge is satisfied that the continued detention of the person is not reasonably necessary to prevent a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency. However, the judge may not order the applicant to pay the costs of the State.

New Section 40 enables a person who is dissatisfied with decision of the Supreme Court judge on an application to release a person detained because of a CBR emergency, to appeal to the Court of Appeal against the decision. The Court of Appeal must determine the matter without delay. Where the Commissioner of the Police Service is appealing the decision of the Supreme Court judge to order the release of the person, the decision is stayed pending the Court of Appeal's decision. The Court of Appeal may allow or dismiss the appeal, and thus may make an order to release the person from detention. However, the Court of Appeal may not order the costs of the State to be paid by the other party.

New Section 41 requires the CBRE coordinator to keep written records of all property seized under new part 3 of the Act and details what information must be recorded. The intended effect of this section is to ensure that property is able to be tracked in order to account for its disposal, to facilitate its return if possible and to assist with any *ex gratia* applications made under section 11 as amended, now new section 46.

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New Section 42 describes the process by which property seized under new part 3 of the Act must be made available for return to the person lawfully entitled to possess it as soon as practicable. However under subsection (2), property not claimed within 60 days after the CBR emergency has ended is forfeited to the State. The intended effect of this subsection is to enable police to dispose of unclaimed property in accordance with established procedures set out in the *Police Powers and Responsibilities Act 2000*.

New Section 43 requires the Minister to table a report in the Legislative Assembly about the CBR emergency within six months after a CBR emergency has ended. The section sets out the minimum requirements of the report and is intended to promote transparency by keeping the public fully informed and to make the Government accountable to Parliament for its actions in a CBR emergency.

Clause 14 omits section 16, which is a general offence provision. Instead, specific penalty provisions have been inserted where required, e.g. see amended sections 8(3) and 9(1).

Clause 15 amends the wording in section 17, which is a general protection from liability clause so that certain listed officials are not liable in relation to things done or omitted to be done under the Act in good faith and without negligence. This brings the wording of the clause more in line with contemporary standards but does not otherwise affect the level of protection afforded by the existing clause.

Clause 16 amends section 18, to include specific certificates signed by specific persons because of a CBR emergency, to be evidence of what they state. The intended effect of this section is to ensure that the certificates may be tendered as evidence of their contents without further proof being required, although a court still has discretion whether to accept or reject this evidence. This is especially important where property is destroyed because of a CBR substance but is required to prove an offence. In a CBR emergency, emergency responders exercising CBR emergency powers are presumed to have authority to do so unless proved otherwise, thereby protecting the actions they take in order to effectively manage the emergency.

Clause 17 renumbers sections 17 and 18 to new sections 47 and 48 as a result of the insertion of new part 3 of the Act.

Clause 18 inserts the definitions from section 4 as amended by clause 4 into a schedule as a dictionary after new section 48.

Clause 19 makes consequential amendments to other Acts listed in the schedule.

SCHEDULE

ACTS AMENDED

Environmental Protection Act 1994

Clause 1 amends section 23(2) to include the Public Safety Preservation Act 1986, part 3 to ensure that an emergency responder whose actions during a CBR emergency breach the Environmental Protection Act 1994, cannot be prosecuted.

Fire and Rescue Service Act 1990

Clause 1 inserts after section 60 a new part entitled “Part 6A - Decontamination”. *Clause 1* also inserts new section 60A into new part 6A, to clarify that an authorised fire officer may request a person who the officer is satisfied may be, is or may have been affected by a chemical substance, to undergo decontamination.

Police Powers and Responsibilities Act 2000

Clause 1 amends section 373(3) to exclude members of the public from assisting police officers in the exercise of their CBR emergency powers.

Clause 2 amends section 420(2) to exclude property seized during a CBR emergency from the administrative requirements under the *Police Powers and Responsibilities Act 2000* as these are sufficiently documented in the *Public Safety Preservation Act 1986*, new section 41 (Record of seized property to be kept).

Clause 3 amends a typographical error.

Clause 4 inserts a new section 420(5), which clarifies that the administrative requirements under the *Police Powers and Responsibilities Act 2000* in relation to police dealing with property in the possession of the police service apply to property forfeited under the *Public Safety Preservation Act*, new section 42 (Return etc. of seized property).

State Counter-Disaster Act 1975

Clause 1 amends section 4 to exclude the Public Safety Preservation Act 1986, part 3. The intended effect is to ensure that any inconsistency between the State Counter-Disaster Organisation Act 1975 and the Public Safety Preservation Act 1986, part 3 does not result in the State Counter-Disaster Organisation Act 1975 prevailing.