

# Counter-Terrorism and Other Legislation Amendment Bill 2015

## Explanatory Notes

### Short title

The short title of the Bill is the Counter-Terrorism and Other Legislation Amendment Bill 2015.

### Policy objectives and the reasons for them

Following the bombings in London in 2005, a Special Meeting of the Council of Australian Governments (COAG) held on 27 September 2005 considered a range of counter-terrorism laws to more effectively meet the threat of international and domestic terrorism. The *Terrorism (Preventative Detention) Act 2005* (TPDA) and Part 2A (Terrorist emergency) of the *Public Safety Preservation Act 1986* (PSPA) gave effect to the COAG agreement.

Queensland's preventative detention legislation and terrorist emergency powers have never been used. However, they have been tested in national and state counter-terrorism exercises. These powers are necessary for preventing or minimising the impacts and potential loss of life resulting from acts of terrorism.

Since September 2014, nationally there have been two terrorist attacks and a further six planned attacks disrupted by authorities. This has resulted in 2 terrorists being fatally wounded and 23 persons being charged with a total of 72 charges. This includes three persons in Queensland who were charged in September 2014.

The Commonwealth's *Review of Australia's Counter-Terrorism Machinery for a Safer Australia* found that the threat of terrorism in Australia is rising and becoming harder to combat. The Commonwealth's *Australia's Counter-Terrorism Strategy – Strengthening Our Resilience 2015* identified that Australia is facing the most significant ongoing threat from terrorism in our nation's history.

The number of foreign fighters, known sympathisers, supporters and serious investigations are all increasing. Whilst the threat of hierarchical cells making detailed plans for mass-casualty and infrastructure attacks remains, there is also an increasing threat of low-tech, lone actor, terrorist attacks. This threat is exponentially harder to disrupt as there may be no visibility of planning and no time delay between intent and action.

Queensland, like other Australian jurisdictions, has residents who are considered a security concern and are the subject of investigations. Returnees from the Syria/Iraq conflict and residents prevented from travelling overseas to participate in that conflict pose a significant domestic security risk. Currently, there are about 120 Australians who are fighting with terrorist groups in the Middle East. There are also about 160 Australians who are supporting those persons through financing and recruitment. In excess of 100 Australian passports of would-be fighters have been cancelled.

Queensland's TPDA contains a 'sunset' provision, which will see the Act expire at midnight on 16 December 2015. The TPDA remains a valuable tool for police to respond to an imminent or recent terrorist act. Due to the nature of terrorism, police may need to intervene early to prevent a terrorist act, or act on less information than would be the case in more traditional policing responses. For Queensland to retain the TPDA as part of its counter-terrorism legislative framework, the sunset provision needs to be extended.

Currently the PSPA and the TPDA have limited extraterritorial application in the maritime environment to Queensland's Coastal Waters (3 nautical miles (nm) seaward of the Territorial Sea Baseline (TSB)). However, the *Intergovernmental Agreement – Crimes at Sea* dated 16 November 2000 (IGA) sets out Queensland's responsibility for the investigation and prosecution of offences in the maritime environment. The combined effect of the *Crimes at Sea Act 2000* (Cwlth) (the Cwlth Act), the *Crimes at Sea Act 2001* (Qld) (the Qld Act) and the IGA applies the 'substantive criminal law' and 'law of criminal investigation, procedure, and evidence' of the State extraterritorially in the waters adjacent to the State from the low water mark out to a distance of 200nm seaward from the TSB, or to the end of the continental shelf where it extends further. The PSPA and the TPDA do not form part of the 'substantive criminal law' and 'law of criminal investigation, procedure, and evidence' of the State and therefore their extraterritoriality is not extended by the Cwlth Act or the QLD Act. For example, if a siege occurred on a cruise ship 4 nm seaward of the TSB which resulted in a number of persons being taken hostage, police would not be able to utilise the emergency management powers under Part 2 of the PSPA in an endeavour to manage and resolve the incident.

Whilst the Commonwealth has primary responsibilities to respond to terrorist events in the maritime environment beyond the TSB, in accordance with national counter-terrorism arrangements, States need to maintain a capacity to respond to the incident in circumstances where the Commonwealth does not have the ability to respond in time or where they require the State to assist. Currently police would not be able to utilise the emergency management powers provided under the PSPA to interdict the vessel, nor would they be able to exercise preventative detention powers, beyond Queensland's Coastal Waters. This would also include circumstances where the defence force was involved in the interdiction of the vessel and the vessel was handed back to police for the investigation of terrorism offences at a location beyond Queensland's Coastal Waters.

The PSPA does not have any extraterritorial application into another State or Territory. This means that a declaration of a vehicle as a declared area for a terrorist emergency would cease

once the vehicle left Queensland. Additionally, a declaration of a motor vehicle or vessel as a declared area for a terrorist emergency would not be able to be made prior to the vehicle or vessel entering Queensland from another State or Territory or entering Queensland's Coastal Waters.

The Bill extends the extraterritorial application of the TPDA to the same area to which the combined effect of the Qld Act and the Cwlth Act apply the substantive criminal law of Queensland. The Bill provides a broader extraterritorial application of the PSPA to ensure that in addition to the maritime environment, the various emergency powers under the Act may be exercised in other Australian jurisdictions. For example, this will allow the declaration of a stated area around a vehicle as a declared area for a terrorist emergency to continue if the vehicle crosses over the state boundary.

### ***Fire and Emergency Services Act 1990***

The Bill amends the definition of *occupier* in the *Fire and Emergency Services Act 1990* to help ensure all providers of accommodation provide a fire safe environment. This amendment supports the objects of the *Fire and Emergency Services Act 1990* by providing for the prevention of, and responses to, fires and other emergency incidents.

### ***Police Service Administration Act 1990***

The Bill amends part 9 of the *Police Service Administration Act 1990* to incorporate the civil liability protections from section 16 'Review Commissioners etc. not to be sued' of the *Police Service Administration (Review of Decisions) Regulation 1990*. During drafting of a new consolidated regulation to the *Police Service Administration Act 1990*, which is intended to be made in 2016, it was identified that it was more appropriate for the civil liability protections in section 16 of the *Police Service Administration (Review of Decisions) Regulation 1990* to be incorporated into the *Police Service Administration Act 1990*. This is because the *Police Service Administration Act 1990* includes a number of provisions in relation to civil liability protections (see ss 10.2R, 10.2V and 10.5) and the protections from section 16 of the *Police Service Administration (Review of Decisions) Regulation 1990* are more appropriately contained in the Act rather than a regulation.

The amendments to the *Police Service Administration Act 1990* will provide civil liability protection to a commissioner for police service reviews (review commissioner), or a person acting at the direction of a review commissioner, for an act done or omitted to be done in good faith and without negligence in the exercise of a function or power conferred by part 9 of the *Police Service Administration Act 1990*. Further, a person, acting in good faith and without negligence, is protected from civil liability for applying for or otherwise being involved in a review of a decision under this part. This protection extends to the giving of oral, written or other matter to a review commissioner or a person acting at the direction of a review commissioner.

By virtue of clause 2 of the Bill, the amendments to part 9 of the *Police Service Administration Act 1990* will commence on proclamation to coincide with the repeal or expiry of the *Police Service Administration (Review of Decisions) Regulation 1990* in 2016.

The Bill also amends the *Police Service Administration Act 1990* to reflect changes in Commonwealth agency names as a result of the amalgamation of the Department of Immigration and Border Protection and the Australian Customs and Border Protection Service into a single department. At the time of the amalgamation, the Australian Border Force, a single frontline operational border control and enforcement entity, was formed within the new Department of Immigration and Border Protection.

### ***Weapons Act 1990***

The Bill amends section 2(1)(c) of the *Weapons Act 1990* to reflect a Commonwealth machinery of government change which amalgamated the Australian Customs and Border Protection Service with the Department of Immigration and Border Protection. The amendment replaces the reference to a member of the ‘Australian Customs Service’ with a reference to an ‘Officer of Customs in the Australian Border Force’, as it applies to the member’s possession and use of weapons in the performance of his or her duty.

An additional amendment will clarify that ‘officer of Customs’ has the meaning prescribed under section 4(1) of the *Customs Act 1901* (Cwlth) and ‘Australian Border Force’ has the meaning prescribed under section 4(1) of the *Australian Border Force Act 2015* (Cwlth).

The amendment is a technical amendment and does not extend the application of section 2(1)(c).

## **Achievement of policy objectives**

The Bill achieves the objectives by amending the following Acts:

- *Fire and Emergency Services Act 1990*;
- *Police Service Administration Act 1990*;
- *Public Safety Preservation Act 1986*;
- *Terrorism (Preventative Detention) Act 2005*; and
- *Weapons Act 1990*.

### ***Fire and Emergency Services Act 1990***

The Bill amends the *Fire and Emergency Services Act 1990*, extending the obligation on the occupier of a building or premises, including those related to maximum occupancy, maintenance of fire safety equipment and smoke alarms. The current definition of *occupier* does not capture absent occupiers, rent-masters (lessees who sub-let to multiple persons) and managers of illegal unsafe rental accommodation.

### ***Police Service Administration Act 1990***

The amendment of part 9 of the *Police Service Administration Act 1990* achieves the policy objective of relocating the current civil liability protections from section 16 ‘Review Commissioners etc. not to be sued’ of the *Police Service Administration (Review of Decisions) Regulation 1990* into the Act.

The Bill also amends the *Police Service Administration Act 1990* to provide transitional amendments to ensure that the powers conferred on officers of customs continued to apply in the period between 1 July 2015 and the amendment of Queensland legislation to recognise the new Department of Immigration and Border Protection.

### ***Public Safety Preservation Act 1986***

The Bill will amend the PSPA to enhance public safety through the extraterritorial application of the Act outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

### ***Terrorism (Preventative Detention) Act 2005***

The Bill will amend the TPDA to enhance public safety by:

- extending the sunset provision of the TPDA, which is set to expire at midnight on 16 December 2015, for a further 10 years;
- requiring the Minister to review of the need for, and effectiveness of, the TPDA within 4 years, with a report on the outcome to be tabled in the Legislative Assembly within 5 years; and
- extending the extraterritorial application of the TPDA to the ‘adjacent area’ for Queensland, as defined in the QLD Act.

### ***Weapons Act 1990***

The Bill inserts transitional amendments to the *Weapons Act 1990*. The transitional amendments ensure the powers conferred on officers of customs continue to apply in the period between 1 July 2015 and the amendment of Queensland legislation to recognise the new Department of Immigration and Border Protection.

## **Alternative ways of achieving policy objectives**

There are no alternative means of achieving the policy objectives other than by legislative reform.

## **Estimated cost for government implementation**

There are no foreseeable increased financial implications for government expenditure resulting from the implementation of this proposal.

## Consistency with fundamental legislative principles

The Bill has been drafted with due regard to the fundamental legislative principles outlined in the *Legislative Standards Act 1992*. However, there are a number of provisions of the Bill that are inconsistent with the fundamental legislative principles. These provisions and explanations for the inconsistencies are addressed below.

### ***Fire and Emergency Services Act 1990 (FESA)***

#### **Legislation should have sufficient regard to the rights and liberties of individuals – *Legislative Standards Act 1992, section 4(2)***

##### Clause 4 (Amendment of sch 6 (Dictionary))

Expanding the definition of an *occupier* of a building or premises under the FESA to mirror the definition of *occupier* under the Criminal Code will have the effect of increasing the number of persons who may be liable for offences under FESA. It may be argued that this amendment will impact upon fundamental legislative principles by adversely affecting the rights and liberties of the individuals who will then be liable for these offences. This concern is outweighed by the community interest in ensuring that persons who, as occupiers, engage in unsafe practices and endanger others do not avoid criminal liability.

### ***Police Service Administration Act 1990***

#### **Legislation should not confer immunity from proceeding or prosecution without adequate justification – *Legislative Standards Act 1992, s 4(3)(h)***

##### Clause 6 (Insertion of new ss 9.7 and 9.8)

Clause 6 raises issues with the fundamental legislative principle outlined in section 4(3)(h) of the *Legislative Standards Act 1992* that legislation should not confer immunity from proceeding or prosecution without adequate justification.

This clause relocates the civil liability protections found in section 16 ‘Review Commissioner etc. not to be sued’ of the *Police Service Administration (Review of Decisions) Regulation 1990* (the PSA(RD) Regulation) to the *Police Service Administration Act 1990* (PSAA). New section 9.7 of the PSAA will confer immunity on a review commissioner, or a person acting at the direction of a review commissioner, from an action, suit or proceeding in relation to an act done or omitted to be done in good faith and without negligence in the exercise or purported exercise of a function or power under part 9 of the PSAA. New section 9.8 of the PSAA will provide a civil liability protection to a person, acting in good faith and without negligence, who applies for, or is otherwise involved in, a review or who gives oral, written or other matter to a review commissioner.

It is considered appropriate to relocate these civil liability protections to the PSAA to ensure that reviews continue to be conducted in an open, independent and impartial way. There must

be no fear of litigation for the review commissioner, decision-maker, applicant or any person presenting material or making submissions.

The provision of civil liability immunity to a person applying for a review, otherwise being involved in a review or giving oral, written or other matter to a review commissioner is consistent with the immunity provided at common law to witnesses in court proceedings to ensure the independence of court hearings. Similar immunities are also provided in section 238 'Protection from civil liability' of the *Queensland Civil and Administrative Tribunal Act 2009*, section 21 'Examination of witnesses by counsel etc' of the *Commissions of Inquiry Act 1950* and section 203 'Protection of members, legal representatives and witnesses' of the *Crime and Corruption Act 2001*.

The immunity does not alter the position that the State may be vicariously liable for the actions of its employees.

### ***Police Service Administration Act 1990 and Weapons Act 1990***

**Legislation should not adversely affect the rights and liberties, or impose obligations, retrospectively – *Legislative Standards Act 1992, s 4(3)(g)***

Clauses 7 (Insertion of new pt 11, div 8) and 17 (Insertion of new pt 8, div 6)

The Bill introduces transitional provisions for the *Police Service Administration Act 1990* and the *Weapons Act 1990* which apply retrospectively. This transitional provision is required as a consequence of the amalgamation of the Australian Customs and Border Protection Service and the Department of Immigration and Border Protection into the new Department of Immigration and Border Protection, which incorporates the Australian Border Force, a single frontline operational and border control and enforcement entity. These provisions allow the authority which was conferred on the Australian Customs and Border Protection Service and a member of the Australian Customs Service as defined under 4(1) of the *Customs Act 1901* (Cwlth) to continue to apply during an interim period between 1 July 2015 and the commencement of Queensland legislation.

The new department of Immigration and Border Protection provides all customs and border protection services for Australia. The new department is supported by the *Border Force Act 2015* and the *Customs and Other Legislation Amendment Act 2015*.

The retrospective provisions do not extend or apply an authority which was not previously stated in legislation. The retrospective provision for the *Police Service Administration Act 1990* will ensure information previously exchanged with the Australian Customs and Border Protection Service can continue to be exchanged with the new Department of Immigration and Border Protection during the interim period.

Similarly, the retrospective provision which applies to the *Weapons Act 1990* allows a person who is an Officer of Customs under section 4(1) of the *Customs Act 1901* (Cwlth) to continue to be afforded an exemption under section 2(1)(c) of the *Weapons Act 1990* with respect to that

officer's possession or use of a weapon in the performance of duties as an Officer of Customs in the Australian Border Force.

***Terrorism (Preventative Detention) Act 2005***

**Legislation should have sufficient regard to the rights and liberties of individuals –  
*Legislative Standards Act 1992, section 4(2)***

Clause 13 (Amendment of s 83 (Sunset provision))

The amendment of section 83 (Sunset provision) of the *Terrorist (Preventative Detention) Act 2005* will extend the expiry of the Act for a further ten years. The extension of the Act effectively extends the police powers currently contained in the Act. Many of these police powers infringe the rights and liberties of individuals. However, the infringement of civil liberties through the detention of a person, for the purpose of preventing an imminent terrorist act or securing evidence following a recent terrorist act, is regarded as necessary for the protection of the community and it is considered that the Act provides adequate safeguards for use of the police powers.

The Act minimises infringements of the fundamental legislative principle about the rights and liberties of individuals by:

- making rights and liberties dependent on the administrative power to detain by sufficiently defining the power, restricting the circumstances of its exercise, including a role for the public interest monitor as early in the process and as far as is practicable, and by making the exercise of such administrative power subject to appropriate review by the Supreme Court;
- ensuring that, as far as practicable, the exercise of the power to detain is not, as far as serving judges are concerned, incompatible with their judicial office;
- ensuring that, as far as practicable, and consistent with the objects of the Act and the public interest in preventing terrorist acts, principles of natural justice are respected;
- ensuring that the administrative power to detain is not delegable;
- not imposing obligations or removing rights retrospectively;
- ensuring a detainee who does not have legal representation is given the opportunity for free legal representation whilst detained under a Preventative Detention Order;
- ensuring police give reasonable assistance to a detainee to choose and contact a lawyer including arranging for the assistance of an interpreter if the detainee has difficulties communicating with reasonable fluency because of an inadequate knowledge of the English language or a disability;
- ensuring a detainee is entitled to contact a lawyer on any matter;



- ensuring a detainee is entitled to unmonitored contact with a security-cleared lawyer unless the issuing authority orders otherwise;
- ensuring an issuing authority for final orders can review the summary of the application provided to a detainee and, if the issuing authority is not reasonably satisfied that the written summary fairly and accurately informs the detainee of the nature and cause of the application, ensuring that the issuing authority can direct the applicant to provide further information; and
- ensuring limited police questioning of a detainee is electronically recorded except under prescribed circumstances.

## **Consultation**

Consultation on the Bill was undertaken with the following community stakeholders:

- Australian Medical Association Queensland;
- Aboriginal and Torres Strait Islander Legal Service;
- Chamber of Commerce and Industry Queensland;
- Queensland Council for Civil Liberties;
- Queensland Law Society;
- Legal Aid Queensland;
- Prisoners Legal Service;
- Public Interest Monitor; and
- Bar Association of Queensland.

## **Consistency with legislation of other jurisdictions**

### ***Public Safety Preservation Act 1986***

Clause 9, insertion of new section 3A (Extraterritorial application of Act). The equivalent legislation in New South Wales, Victoria, Northern Territory, Tasmania and Western Australia has extraterritorial application out to 3 nm seaward of the TSB. South Australia's equivalent legislation has extraterritorial application out to 100 nm seaward of the TSB.

### ***Terrorism (Preventative Detention) Act 2005***

Clause 13, amendment of section 83 (Sunset provision) extends the operation of the Act for a further 10 years. Additionally, new section 83A (Review of Act) requires the Minister to commence a review of the need for, and effectiveness of, the TPDA within four years, with a report on the outcome to be tabled in the Legislative Assembly within five years.

Over the next two years preventative detention legislation in all jurisdictions is scheduled to expire. Only the Commonwealth has extended the operation of its legislation to date. Despite the COAG Response recommending the extension of the preventative detention legislation for a further 10 years, the Commonwealth scheme was only extended until 7 September 2018.

Whilst the Commonwealth legislation has only been extended until 7 September 2018, there is no necessity for other jurisdictions' legislation to expire at the same time. This is evidenced by the current varying expiry dates for other jurisdictions' preventative detention legislation.

Clause 11, replacement of section 6 (Extraterritorial application of Act). All jurisdictions' preventative detention legislation provides for the powers under their respective legislation to be exercised whether or not the terrorist act or suspected terrorist act was occurring or likely to occur within or outside their jurisdiction. The equivalent legislation in New South Wales, Victoria, Northern Territory, Tasmania and Western Australia has extraterritorial application out to 3nm seaward of the TSB. South Australia's equivalent legislation has extraterritorial application out to 100 nm seaward of the TSB.

## Notes on provisions

### Part 1 Preliminary

#### 1. Short title

Clause 1 provides that, when enacted, the Bill will be cited as the *Counter-Terrorism and Other Legislation Amendment Act 2015*.

#### 2. Commencement

Clause 2 provides that clause 6 will commence upon proclamation. Clause 6 amends part 9 of the *Police Service Administration Act 1990* and is required to commence upon proclamation so that the amendments will coincide with the repeal or expiry of the *Police Service Administration (Review of Decisions) Regulation 1990* in 2016. All remaining clauses commence upon assent.

### Part 2 Amendment of *Fire and Emergency Services Act 1990*

#### 3. Act amended

Clause 3 provides that Part 2 amends the *Fire and Emergency Services Act 1990*.

#### 4. Amendment of sch 6 (Dictionary)

Clause 4 expands the definition of *occupier* by adopting the definition of occupier used in the Criminal Code. This amendment ensures that absent occupiers, rent-masters (lessees who sub-let to multiple persons) and managers of unsafe rental accommodation will fall within the ambit of this definition.

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

#### 5. Act amended

Clause 5 provides that Part 3 amends the *Police Service Administration Act 1990*.

#### 6. Insertion of new ss 9.7 and 9.8

Clause 6 amends part 9 of the *Police Service Administration Act 1990* to incorporate the civil liability protections from section 16 ‘Review commissioner etc. not to be sued’ of the *Police Service Administration (Review of Decisions) Regulation 1990*.

The clause inserts new section 9.7 into the *Police Service Administration Act 1990* to replicate the effect of s 16(1) of the *Police Service Administration (Review of Decisions) Regulation 1990*. New section 9.7 provides that a commissioner for police service reviews (review commissioner), or a person acting at the direction of a review commissioner, is not liable to an action, suit or proceeding for an act done or omitted to be done in good faith and without negligence in the exercise of a function or power conferred by part 9 of the *Police Service Administration Act 1990*.

This clause also inserts new section 9.8 into the *Police Service Administration Act 1990* to replicate the effect of s 16(2) of the *Police Service Administration (Review of Decisions) Regulation 1990*. New section 9.8 provides a civil liability protection for a person who applies for a review or gives oral, written or other matter to a review commissioner for engaging (or for the result of engaging) in applying or otherwise being involved in the review, or presenting the matter, if done in good faith and without negligence.

**7. Insertion of new pt 11, div 8**

Clause 7 inserts new Part 11, Division 8 (Transitional Provision for Counter-Terrorism and Other Legislation Amendment Act 2015) to recognise the authority of the Department of Immigration and Border Protection as an approved agency for part 10, division 1A and a law enforcement agency under part 10, division 1A of the *Police Service Administration Act 1990*, during the period between 1 July 2015, when a machinery of government change amalgamated Australian Customs and Border Protection Service and the Department of Immigration and Border Protection, and the amendment of Queensland legislation which recognises the new department.

**Part 4 Amendment of *Public Safety Preservation Act 1986***

**8. Act amended**

Clause 8 provides that Part 4 amends the *Public Safety Preservation Act 1986*.

**9. Insertion of new section 3A**

Clause 9 inserts a new section 3A (Extraterritorial application of Act) to provide for the extraterritorial application of the Act to the full extent of the extraterritorial legislative power of the Parliament.

Subsections (3) and (4) provides the reference to the appropriate indices of ‘sufficient nexus’ with Queensland.

Subsection (5) enables the exercise of a power under the Act outside Queensland.

Subsection (6) ensures the ability to declare an area around a vessel, as a terrorist emergency site, even though the vessel at that time is beyond the Coastal Waters of the State. For example, in the Territorial Sea or beyond the continental shelf or in the adjacent area for another Australian State or Territory. Likewise, it enables the declaration of an area around a motor vehicle in another Australian State or Territory as a declared area for the terrorist emergency site. Furthermore, a declaration does not cease because the vehicle crosses the State boundary.

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

**10. Act amended**

Clause 10 provides that Part 5 amends the TPDA.

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

Clause 11 replaces the current section 6 (Extraterritorial application of Act).

Subsection (2) replicates the existing section 6.

Subsections (1)(b) and (3) extend the extraterritorial application of the Act to include the adjacent area for Queensland as defined in the *Crimes at Sea Act 2001*, schedule, clause 14. This enables the extraterritorial application of the Act out to 200 nm seaward of the TSB, or to the end of the continental shelf where it extends further, in circumstances where a ‘sufficient nexus’ exists for the exercise of such power.

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

Clause 12 amends section 41 (Power to enter premises) to replace terms due to the extraterritorial application of the TPDA to the adjacent area for Queensland as defined in the *Crimes at Sea Act 2001*. This will enable police with a power to enter a vessel to enforce a Preventative Detention Order. Furthermore, it will ensure that the existing restrictions around entry of a dwelling at night time will apply where the dwelling is a vessel.

#### **13. Amendment of s 83 (Sunset provision)**

Clause 13 amends section 83 (Sunset provision) to extend the sunset provision for a further 10 years. Section 83 currently provides that the Act ‘expires at the end of 10 years after the day on which this section commences’, which is midnight on 16 December 2015.

#### **14. Insertion of new s 83A**

Clause 14 inserts a new section 83A (Review of Act) which contains a requirement for the Minister to commence a review of the need for, and effectiveness of, the Act within 4 years after the commencement of new section 83A. Subsection (b) requires the Minister to prepare a report on the outcome of the review and table this report in the Legislative Assembly within 5 years of this section commencing. Nothing in this section prevents the Minister from undertaking the review and tabling the report in the Legislative Assembly earlier than the specified timeframes.

### **Part 6 Amendment of *Weapons Act 1990***

#### **15. Act amended.**

Clause 15 provides that Part 6 amends the *Weapons Act 1990*.

#### **16. Amendment of s 2 (Application of Act)**

Clause 16 replaces section 2(1)(c) of the *Weapons Act 1990* to replace the reference to a member of the Australian Customs Service as prescribed under the *Customs Act 1901* (Cwlth) with an officer of Customs in the Australian Border Force.

Clause 16(2) inserts section 2(9) into the *Weapons Act 1990* to define the terms ‘Australian Border Force’ and ‘officer of Customs’.

**17. Insertion of new pt 8, div 6**

Clause 17 inserts new Division 6 (Transitional provision for Counter-Terrorism and Other Legislation Amendment Act 2015) into Part 8 of the *Weapons Act 1990*. The new division inserts a transitional provision to recognise that an exemption which applied to a member of the Australian Customs Service under section 2(1)(c) of the *Weapons Act 1990*, continued to apply to an officer of Customs in the Australian Border Force during the period between 1 July 2015, when a machinery of government change amalgamated the Australian Customs and Border Protection Service and the Department of Immigration and Border Protection, and the amendment of Queensland legislation to recognise the new department.