Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, Daniel Purdie MP, Minister for Police and Emergency Services, make this statement of compatibility with respect to the Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019* (HR Act). I base my opinion on the reasons outlined in this statement.

Overview of the Bill

Jack's Law

The primary objective of the Bill is to enhance community safety and security through the expansion of 'Jack's Law'. Jack's Law proactively prevents knife related crime by authorising police officers to use a hand held scanner to detect knives or other weapons in certain places.

In May 2021, the *Youth Justice and Other Legislation Amendment Act 2021* established a trial within the Surfers Paradise and Broadbeach Safe Night Precincts (SNPs) which allowed a senior police officer to authorise a police officer to use a hand held scanner to detect if a person was in possession of a knife at these locations. When Jack's Law was initially implemented in 2021, the decision making framework to authorise the use of a hand held scanner did not involve a consideration of any factors to be considered or a threshold to be reached by the decision maker.

In Report No. 7, 57th Parliament – Youth Justice and Other Legislation Amendment Bill 2021, the Legal Affairs and Safety Committee considered the impact of these amendments upon an individual's human rights and commented that as the intention behind the change is related to the legitimate purpose of reducing knife crime and protecting the community, it was arguable that the means chosen and their impact on human rights were proportionate. The Committee found that, on balance, it was satisfied that any limitation on human rights was reasonable and demonstrably justified in the circumstances. This trial was held between May 2021 and April 2023.

On 2 April 2023, the *Police Powers and Responsibilities (Jack's Law) Amendment Act 2023* expanded this trial to include all 15 SNPs in Queensland, public transport stations and public transport vehicles and named it 'Jack's Law'. Although the police powers to use a hand held scanner to detect a knife and the associated safeguards remained the same, these amendments introduced a new criteria that were required to be addressed by the senior police officer in

authorising a police officer to use a hand held scanner in these areas, namely an evidentiary and subjective test.

In Report 27, 57th Parliament – Police Powers and Responsibilities (Jack's Law) Amendment Bill 2022, the Community Support and Services Committee recommended the Bill be passed by Parliament and was satisfied that on balance with maintaining community confidence and safety, that any limitations on human rights were reasonable and justifiable.

On 30 August 2024, the *Queensland Community Safety Act 2024* further amended Jack's Law by expanding the use of hand held scanners to other public spaces such as shopping centres, sporting or entertainment venues and rail lines, and extended the expiry of these provisions to 30 October 2026. Although the safeguards for the exercise of these powers remained consistent with those introduced by the *Police Powers and Responsibilities (Jack's Law) Amendment Act 2023*, these amendments further expanded the considerations that were required to be made by the senior officer in authorising the use of hand held scanners. In Report 15, 57th Parliament – Queensland Community Safety Bill 2024, the Community Safety and Legal Affairs Committee commented that it was satisfied, having regard to the policy objectives of the expansion of the trial and the application of safeguards and the training provided, that the limitations imposed on human rights proposed by the Bill were reasonable and justifiable.

The Government has committed to making Jack's Law permanent by removing the sunset clause scheduling its expiry on 30 October 2026.

The Bill will expand upon the existing Jack's Law framework by:

- removing the sunset clause within Jack's Law;
- allowing police officers to use hand held scanners in existing prescribed public areas without the need to obtain authority from a senior police officer;
- extending the application of Jack's Law to include other public places that are not currently prescribed by allowing police officers to use a hand held scanner in these areas provided they first obtain authority to do so from a senior police officer; and
- improving policing efficiencies by streamlining the legislative framework underlying Jack's Law.

Extension of the operational period of the *Terrorism (Preventative Detention) Act 2005*

The *Terrorism (Preventative Detention) Act 2005* (TPD Act) is part of a suite of nationally consistent powers to allow a person to be taken in custody and detained for a short period of time to prevent a terrorist act occurring in the near future or to preserve evidence of, or relating to, a terrorist act. The preventative detention powers in the TPD Act have not been relied upon in Queensland, but comparable legislation in other Australian jurisdictions has been used.

The TPD Act provides that it will automatically expire on 16 December 2025, which is 20 years after its commencement. The Bill will extend the operational period of the legislation for a further 15 years, with the objective of ensuring Queensland aligns with interoperable counter-terrorism legislation across Australian jurisdictions that enables police to prevent a terrorist act or secure evidence following a terrorist act.

The Bill does not introduce any policy changes or other amendments to the TPD Act.

Amendments to the *Marine Rescue Queensland Act 2024* and the *State Emergency Service Act 2024*

The Bill will also amend:

- the *Marine Rescue Queensland Act 2024* (MRQ Act) to clarify the ability of Marine Rescue Queensland (MRQ) to receive gifts; and
- the *State Emergency Service Act 2024* (SES Act) to confirm that any previously made appointment of a person as a State Emergency Service (SES) member is valid.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the following human rights that are relevant under the Bill are:

- recognition and equality before the law – section 15(3) of the HR Act;
- right to life – section 16 of the HR Act;
- freedom of movement – section 19 of the HR Act;
- property rights – section 24 of the HR Act;
- privacy and reputation – section 25 of the HR Act; and
- right to liberty and security of person – section 29 of the HR Act.

Jack's Law

The promotion of human rights

Section 16 (Right to life) of the HR Act provides that every person has the right to life and has the right not to be arbitrarily deprived of life. The right to life is drawn from Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR). The Human Rights Committee of the United Nations has recognised the importance of this right by stating[1]:

> The right to life has crucial importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, the effective protection of which is the prerequisite for the enjoyment of all other human rights and the content of which can be informed by other human rights.

Further, section 29 (Right to liberty and security) of the HR Act provides that every person has the right to liberty and security. Under international law, the right to security is considered separate to the right to liberty, placing an obligation on public authorities to take reasonable and appropriate measures to protect the security of persons under their jurisdiction. Regardless of whether section 29 of the HR Act imposes a similar obligation on Queensland authorities, it is undoubtedly in the public interest that all persons can access public places safely.

[1] General comment No. 36 on Article 6: right to life.

The paramount importance of promoting these rights is made evident through the variety of human rights that are subsequently impacted through knife crime. For example, these rights may range from curtailment of the right to enjoy the natural environment and to carry on business through the fear of knife crime through to, in the most tragic circumstances, the loss of life. Regrettably, Queensland has witnessed the loss of life through knife crime not limited to a specific demographic. The loss experienced by these victim's families and the community generally is profound.

The impact of knife crime continues to be a legitimate community concern held in Queensland and other Australian jurisdictions. The Bill addresses this concern through amendments that allow the use of hand held scanners to detect knives in a greater range of public places. This promotes safety and security within the Queensland community through the seizure of unlawful weapons that are located, the deterrence of the unlawful possession of knifes and the enhancement of community confidence through improvements in the general safety of these places.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

The Bill will allow police officers to require a person to stop and submit to the use of a hand held scanner for the purpose of determining if the person is in possession of a knife in the following public places (relevant places):

- all Queensland safe night precincts,
- public transport stations;
- public transport vehicles;
- shopping centres;
- retail premises;
- sporting and entertainment venues;
- licensed premises; and
- rail lines.

The Bill will also allow a senior police officer to give an authorisation in a public place (other than relevant places) to a police officer to require a person to stop and submit to the use of a hand held scanner for the purpose of determining if the person is in possession of a knife or other weapon. Any such authorisation is to be for a period of no more than 12 hours. A senior police officer granting the authority must be satisfied the use of hand held scanners is likely to be effective to detect or deter the commission of an offence involving the possession or use of a knife or other weapon.

The process of scanning a person includes:

- requiring a person to stop and be subject to the use of a hand held scanner,
- requiring the individual to produce the thing that may be causing the hand held scanner to indicate that metal is, or is likely to be, present; and resubmit to the use of a hand held scanner, and
- confiscating, if found on the individual, any illegal knife or other weapon, or other item.

(a) the nature of the right

The Bill will authorise a police officer to proactively use a hand held scanner, in a relevant place, without authorisation, and in public places, that are not relevant places, with senior police officer authorisation. The rights potentially impacted by expansion to Jack's Law include the right to recognition and equality before the law (section 15 of the HR Act), freedom of movement (section 19 of the HR Act), property rights (section 24 of the HR Act), the right to privacy (section 25 of the HR Act) and liberty (section 29 of the HR Act).

Recognition and equality before the law (section 15 of the HR Act)

The right to recognition and equality before the law in section 15 of the HR Act encompasses the right to recognition as a person before the law and the right to enjoy the person's human rights without discrimination. The right provides that a person is equal before the law and is entitled to the equal protection of the law without discrimination and requires the law being applied in a non-discriminatory or arbitrary way. Discrimination includes but is not limited to direct and indirect discrimination as defined in the *Anti-Discrimination Act 1991*.

This right may be engaged as this power enables police to randomly select people to stop and submit to hand held scanning within a relevant place, without any basis, such as reasonable suspicion and without the prerequisite of an authorisation from a senior police officer. Additionally, the expansion to Jack's Law enables police officers, in a public place, that is not a relevant place, to conduct hand held scanning. However, this would require a senior police officer's approval. A senior police officer must be satisfied the use of hand held scanners is likely to be effective to detect or deter the commission of an offence involving the possession or use of a knife or other weapon.

It is likely that an expansion into public places, that are not relevant places, will likely increase the number of persons being in contact with police and subject to hand held scanning. As these amendments expand the scope of where hand held scanning can occur, this may lead to an increased number of knife offences being detected with the consequence that there may be an increased number of individuals entering the justice system.

Freedom of movement (section 19 of the HR Act)

The right to freedom of movement protects a person's right to move freely within Queensland, enter and leave it, and choose where to live if they are lawfully within Queensland.

The amendments may limit this right as police will have the power to stop a person and require them to submit to the use of a hand held scanner, to ascertain if the person has a knife in their possession in additional locations than currently provided for under Part 3A of Chapter 2 of the *Police Powers and Responsibilities Act 2000* (PPRA). This right may be further limited should police form a reasonable suspicion that the person unlawfully has a knife or weapon.

Locations are expanded to include public places, beyond that which are currently defined as relevant places. While it is acknowledged the expansion to other public places will impact individual rights and liberties, this concern is minimised through the legislative safeguards associated with the exercise of the police powers when using a hand held scanner.

The amendments also allow a police officer who starts using a hand held scanner on a person in the relevant place or authorised public place, to continue to exercise the power even if the person leaves the relevant place or authorised public place. For example, if a person leaves mid-way during the use of a hand held scanner on them by a police officer, or an unrelated incident occurs, a police officer and a person who is the subject of a hand held scanner may be required to leave the relevant place and move across a road (not a relevant place) to ensure the police officer and person's safety.

A police officer must use a hand held scanner in the least invasive way that is practicable and must only detain a person for as long as reasonably necessary to exercise the power. Further, any concern about the impact of these amendments upon an individual's human rights have to be balanced against the legitimate public concern about knife crime and the potential proactive promotion of community safety and security in public places generated by the Bill.

Property rights (section 24 of the HR Act)

This right protects all people's right to own property alone or with others and that a person should not be unlawfully or arbitrarily deprived of the person's property. The term 'deprived' is not defined by the HR Act, however, deprivation in this sense is considered to include the substantial restriction on a person's use or enjoyment of their property, to the extent that it substantially deprives a property owner of the ability to use his or her property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it). In the human rights context, arbitrarily is taken to mean capricious, unpredictable, unjust, and unreasonable in the sense of not being proportionate to a legitimate policy objective. This right does not include a right to compensation if a person is deprived of their property. This right may be limited as there is a possibility, that as a result of the hand held scanning, a police officer may locate a knife or other weapon and confiscate it, or an item may be forfeited, if the person is in unlawful possession of a knife or other weapons.

Privacy and reputation (section 25 of the HR Act)

The right to privacy and reputation protects a person's right not to have their privacy and reputation unlawfully or arbitrarily interfered with. The nature of the right to privacy and reputation is very broad. Protection against a person's privacy is limited to unlawful or arbitrary interference. The notion of arbitrary interference extends to lawful interferences, which are also unreasonable, unnecessary, or disproportionate. The concept of lawfulness in the context of the right to privacy means that no interference can occur except in cases envisaged by the law. Interference authorised by states can only take place based on law, and the law must be adequately accessible and precise so a person can regulate their conduct.

The power to scan a person may be deemed to interfere with a person's dignity and bodily integrity, and therefore limits this right. Additionally, it is likely that more people's privacy may be limited as scanning can be undertaken in public places, that are not relevant places, therefore exposing more individuals to interaction with police and subject to scanning.

This interference and inconvenience to a person is minimised as far as possible. Hand held scanning of the person can be completed in a short period of time and in a non-invasive manner as the hand held scanner passes over the exterior of the person's clothing and belongings. If the scanner indicates the presence of metal, the person will be required to produce any item likely to have caused the activation, after which the person may be scanned again.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the Bill is to minimise the risk of physical harm caused by knife crime by locating and removing knives in the community. The powers exercised are limited to a cohort of people who are within a legislatively defined relevant place without authorisation, or a public place that is not a relevant place, where an authority exists. These locations have been identified as places where the use of a hand held scanner may minimise the risk of physical harm caused by knives and provide police officers with proactive powers to detect and deter the unlawful possession of knives, and enhance community safety and security.

Interference and inconvenience to a person is minimised as far as possible. Hand held scanning of the person can be completed in a short period of time and in a non-invasive manner. If the scanner indicates the presence of metal, the person will be required to produce any item likely to have caused the activation, after which the person may be scanned again. Additionally, the confiscation of an illegal knife, weapon, or item, promotes community safety and security by removing weapons that could be used in the commission of a violent offence.

Legislative safeguards exist within the PPRA to reduce the risk of unreasonable interference with an individual's rights and liberties, including that a police officer must:

- exercise the power under a hand held scanner authority in the least invasive way that is practicable in the circumstances;
- only detain the person for so long as is reasonably necessary to exercise the power;
- if requested by the person, inform the person of the police officer's name, rank and station, or in writing if requested;
- produce the police officer's identity card for inspection, unless the police officer is in uniform; and
- inform the person that the person is required to allow the officer to use a hand held scanner to determine whether the person is carrying and knife or other weapons.

While there are limitations on individual rights, the limitations maximise and promote community safety and security by enabling police officers to proactively conduct hand held scanning on individuals and enhance community safety.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The Bill will achieve the purpose of reducing the risk of physical harm caused through knife crime by enabling police officers to proactively use hand held scanners in or on relevant places, and in or on public places, that are not relevant places if authorised by a senior police officer. The limitations on a person's rights are restricted to legislatively defined relevant places, and public places that are not relevant places, with senior officer authorisation. These locations have been identified as areas where there is a prevalence of knives in the community or knife related crime.

Between 3 April 2023 and 12 March 2025, 1,043 weapons were located with 102,266 persons being scanned through 10,128 authorisations made by senior police officers. This resulted in 841 charges under the *Weapons Act 1990*. Additionally, statistics obtained in relation to the number of reported offences involving knives in a public place (excluding relevant places) identified total offences have increased overall since 2021 from 5,895 offences to 6,447 in 2024. Providing police officers with proactive policing powers enabling them to conduct hand held scanning without authorisation within a relevant place, and in public places (that are not relevant places) with authorisation, will provide significant community safety benefits by deterring and detecting knives in the community.

It is acknowledged that the Bill will expand the use of hand held scanners to individuals in public places other than relevant places. This may result in a larger number of persons being scanned. However, the interference to each individual is minimised as far as possible as hand held scanning is statutorily required to be completed in a short period of time and in a non-invasive manner. Importantly, Jack's Law does not provide a carte blanche authority to search persons without a warrant. It is limited to the circumstances within Part 3A of the PPRA. Police officers are not to use the powers under Jack's Law to conduct a search without a warrant of a person, when they do not reasonably suspect any of the prescribed circumstances for searching a person without a warrant exist under Chapter 2, Part 2, Division 2 of the PPRA. Additionally, the safeguards associated with the exercising of police powers in a prescribed relevant place will be maintained and these safeguards will similarly apply to public places other than relevant places.

Any concerns about this human right being engaged is mitigated due to the inherent nature of the proposed amendments. These amendments are not targeted at any particular person or cohort of persons but have general applicability to any person who is in a public space. As such the proposed amendments should not be interpreted as being discriminatory or inequitable.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill.

There are no less restrictive and reasonably available ways to achieve the purpose of the Bill. The Bill removes the statutory requirement for an authorisation in a relevant place. This provides police officers with the necessary power to proactively scan, detect and deter knives in the community. The Bill also expands to public places, that are not relevant places, with authorisation from a senior police officer. Creating an authorising environment within a public place, provides a degree of supervision to safeguard that hand held scanning is undertaken lawfully and with the intent to enhance community safety and security. These locations have been identified as areas where there is a prevalence of knives in the community or knife related crime. The expansion will provide police officers with the flexibility to conduct hand held scanning in these locations, with authorisation, to enhance community safety and security.

Importantly, relevant legislative safeguards remain to ensure the use of hand held scanners will be used appropriately by police. Additionally, annual reporting requirements remain, including that the Commissioner of Police must include information in the QPS annual report about:

- the number of hand held scanner authorities issued during the financial year;
- the number of people who were required to submit to the use of hand held scanners under the authorities;

- the number of knives or other weapons that were detected using hand held scanners under the authorities;
- the number of times a power to search a person without a warrant was exercised under chapter 2, part 2, division 2 as a result of the use of hand held scanners under the authorities; and
- the number and type of charges made against persons as a result of the use of hand held scanners under the authorities.

In developing the Bill, consideration was given to equivalent legislation in other States. Jack's Law has inspired all other Australian States and Territories, with the exception of the Australian Capital Territory to trial, introduce or pass similar legislation. Given other Australian jurisdictions are adopting similar legislative measures to Queensland, this indicates a broader consensus on the importance of legislative responses to violence crime involving knives.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The use of hand held scanners in relevant places and other public places, that are not relevant places, limit human rights, in particular the right to equality before the law, freedom of movement and the right to privacy. The highest impost on human rights is that a police officer can arbitrarily stop and scan a person, in the absence of any reason, and in relevant places, without an authorisation from a senior police officer.

However, the use of hand held scanning is designed to be non-intrusive and for the shortest period possible, with no ancillary power to request a person's name. On balance, enhancing community safety and security outweighs the limitation of the rights on the individual who is subject to hand held scanning, particularly where the process of scanning is the least intrusive method to enhance community safety and the prevention of knife related crime.

(f) any other relevant factors

Not applicable.

Extension of the operational period of the *Terrorism (Preventative Detention) Act 2005*

The amendment to the TPD Act in the Bill extends the operational period of the TPD Act for 15 years to ensure Queensland aligns with interoperable counter-terrorism legislation across Australian jurisdictions.

This amendment engages a number of rights protected by the HR Act, namely:

- the right to life (section 16 of the HR Act);
- the right to freedom of movement (section 19 of the HR Act);
- the right to freedom of thought, conscience, religion and belief (section 20 of the HR Act);
- the right to privacy and reputation (section 25 of the HR Act);
- the right to liberty and security of the person (section 29 of the HR Act); and
- the right to humane treatment when deprived of liberty (section 30 of the HR Act).

The amendment in the Bill extends the operational period of the TPD Act and continues the existing scheme. This approach will not cause additional human rights limitations, however human rights engagements are set out below.

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 HR Act)

(a) the nature of the right

The right to life (section 16 of the HR Act)

The right to life imposes both negative and positive obligations on the State which can never be derogated under any circumstances, even in a state of emergency which threaten the life of the nation.[2]

The United Nations Human Rights Committee (UNHRC) has said that the protection of the right to life also imposes three positive obligations on the State: a protective obligation to take appropriate steps and adopt positive measures to protect life, including, for example effective criminal law and law enforcement provisions and other mechanisms to protect the health and safety of its citizens; to protect the lives of people in the State's custody or care; and a procedural obligation to ensure safeguards and mechanism of review are in place to investigate deaths which may have involved the deprivation of life in certain circumstances, such as people in the State's custody or care (for example, through the coronial review mechanism).

The right to freedom of movement (section 19 of the HR Act)

Every person lawfully within Queensland has the right to move freely within Queensland, enter or leave Queensland, and chose where to live. This means that a person cannot be arbitrarily forced to remain in, or move to or from, a particular place.

The right to freedom of thought, conscience, religion and belief (section 20 HR Act)

The right to freedom of thought, conscience, religion and belief protects a person's right to develop autonomous thoughts and conscience, to think and believe as the person wishes and to have or adopt a religion without external influence. This includes the right to freely demonstrate religion or belief.

The right to privacy and reputation (section 25 HR Act)

The right to privacy and reputation protects a person's right not to have their privacy and reputation unlawfully or arbitrarily interfered with. The right to privacy, which is broadly construed, includes a specific right against interference with a person's physical integrity as well as a person's personal information. Protection against a person's privacy is limited to unlawful or arbitrary interference. The notion of arbitrary interference extends to lawful interferences, which are also unreasonable, unnecessary, or disproportionate.

[2] *Human Rights Committee, General Comment No. 6.*

The right to liberty and security of person (section 29 HR Act)

The right to liberty means that a person must not be arrested or detained unless provided for by law. Arrest and detention must not be arbitrary. This right applies to all forms of detention where people are deprived of their liberty, not just criminal justice processes. This can be relevant any time a person is not free to leave a place by their own choice.

The UNHRC has said that detention can become arbitrary if it continues beyond the period for which it can be justified, and that, where a person has been detained for a specific purpose, there must be appropriate justification to continue detention once the original purpose no longer applies. The burden on the State to justify the continued detention increases with the length of the detention.[3]

The right to humane treatment when deprived of liberty (section 30 HR Act)

The right to humane treatment when deprived of liberty means a person must be treated with respect when deprived of liberty, and a person charged but not convicted of an offence should be held separately to a convicted person, unless it is necessary. The right to humane treatment means that people in detention should not be subject to hardship or constraint in addition to the deprivation of liberty.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the TPD Act is to allow a person to be taken into custody and detained for a short period of time in order to prevent an imminent terrorist act or to preserve evidence following a terrorist act.

The right to life (section 16 of the HR Act)

The TPD Act provides police with narrow powers for the short-term preventative detention of people without arrest or charge to prevent an imminent act of terrorism or to preserve evidence of a terrorism act. An act of terrorism can include the threat or use of violence and can result in fatalities. The amendment in the Bill to extend the operational period of the TPD Act promotes the right to life through the continuation of preventative detention powers available to police officers to protect the community from terrorism.

Therefore, the right to life is not limited by the amendment in the Bill.

The right to freedom of movement (section 19 of the HR Act)

The extraordinary police powers under the TPD Act enable the detainment of a person subject to a preventative detention order without arrest or charge for up to 14 days. While only available in narrow circumstances, the power may limit the right to freedom of movement by detention.

[3] United Nations Human Rights Committee, *General Comment No. 35*

Any detention order is subject to Public Interest Monitor oversight and must be judicially approved for the detention to extend beyond 24 hours. It is therefore considered that such a limitation is proportionate to the assessed level of terrorism risk posed.

The amendment in the Bill to extend the operational period of the TPD Act does not further limit the right to freedom of movement.

The right to freedom of thought, conscience, religion and belief (section 20 HR Act)

As the TPD Act applies to terrorism which is the use or threat of violence in the pursuit of political or ideological goals, the TPD Act limits the right to freedom of thought, conscience, religion and belief.

The amendment in the Bill to extend the operational period of the TPD Act does not further limit the right to freedom of thought, conscience, religion and belief.

The right to privacy and reputation (section 25 HR Act)

A person's right to privacy and reputation may be limited if police are exercising powers under the TPD Act to preventatively detain a person. For example, section 59 of the TPD Act allows police to monitor the communications between a person who is subject to a detention order and their family members, their lawyer and other persons as nominated by the Act. A person being detained on a preventative detention order may also be subject to searches under sections 42, 43 and 43A of the TPD Act. These powers limit the person's right to privacy and reputation but are considered necessary and proportionate with respect to the prevention and interruption of potential terrorist activity.

The amendment in the Bill to extend the operational period of the TPD Act does not further limit the right to privacy and reputation.

The right to liberty and security of person (section 29 HR Act)

Detention of a person under a preventative detention order is not an arbitrary process. There is a high threshold to secure a preventative detention order, as set out in section 8 of the TPD Act.

The amendment in the Bill to extend the operational period of the TPD Act does not further limit the right to liberty.

The right to security requires the State to take reasonable measures to protect a person's security (both physical and mental). The proposal to extend the operational period of the TPD Act promotes this right as the TPD Act allows police to temporarily and preventatively detain individuals suspected of involvement in terrorism, thereby enhancing community safety and security.

The right to humane treatment when deprived of liberty (section 30 HR Act)

The TPD Act contains safeguards to protect the right to humane treatment when deprived of liberty. Section 52 of the TPD Act requires that a person being taken into custody or detained on a preventative detention order must be treated with humanity and respect for human dignity, and must not be subject to cruel, inhuman or degrading treatment. A person who contravenes this safeguard commits a criminal offence with a penalty of two years imprisonment.

The amendment in the Bill to extend the operational period of the TPD Act does not further engage the right to humane treatment when deprived of liberty.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The purpose of the amendment to extend the operational period of the TPD Act is to maintain the protective legislative framework to minimise the risk of harm to the community by a terrorist act or potential terrorist act. While there are limitations on individual rights, the limitations maximise and promote community safety and security by empowering police officers to detain individuals who are considered to pose a risk of terrorism.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill.

There are no less restrictive and reasonably available ways to achieve the purpose of the Bill.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The detention of a person without arrest or charge to prevent imminent terrorism or preserve evidence of, or relating to, a terrorist act limits several human rights, particularly the freedom of movement, the right to liberty and the right to privacy.

On balance, ensuring public safety and security from a terrorism act or threat outweighs the limitation of the rights on the individual who is detained under the provisions of the TPD Act.

Despite this, the amendment in the Bill to extend the operational period of the TPD Act does not further limit human rights.

(f) any other relevant factors

There are no other relevant factors.

Conclusion

In my opinion, the Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025 is compatible with human rights under the *Human Rights Act 2019* because it limits human rights only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

DANIEL PURDIE MP
MINISTER FOR POLICE AND EMERGENCY SERVICES