

LEGISLATIVE COUNCIL

AMENDMENTS AND SCHEDULES

Supplementary Notice Paper No. 89
Issue No. 3

THURSDAY, 11 NOVEMBER 2010

CRIMINAL INVESTIGATION AMENDMENT BILL 2009 [89-1]

[c1]When in committee on the *Criminal Investigation Amendment Bill 2009*:

Clause 5

Minister for Energy representing the Minister for Police: To move -

6/5 Page 2, after line 14 — To insert —



70AA. Purposes of sections 70A and 70B

- (1) In this section —
illicit item means any thing that may be seized under section 70A(4).
- (2) The purposes of sections 70A and 70B are to improve public safety as the result of reducing the incidence of weapons and other illicit items being carried by people in public places by providing police officers with powers to search a person or vehicle in a public place in an identified area without the need for —
 - (a) reasonable suspicion relating to any thing relevant to an offence; or
 - (b) the person's consent.

Minister for Energy representing the Minister for Police: To move -

7/5 Page 2, after line 16 — To insert —

- (1A) The powers in this section cannot be exercised by a person holding office as a police auxiliary officer under the *Police Act 1892* Part IIIB.

Minister for Energy representing the Minister for Police: To move -

8/5 Page 2, after line 21 — To insert —

- (2A) Regulations that prescribe an area for the purposes of subsection (1)(a) may only be made on the recommendation of the Minister.
- (2B) The Minister may make a recommendation under subsection (2A) in respect of an area —
 - (a) only if satisfied that —
 - (i) the powers in this Part, apart from this section, that may be exercised in the area are not sufficient; and
 - (ii) it is necessary for the powers in this section to be exercised in the area;
 - and
 - (b) only in respect of an area no larger than is reasonably necessary, having regard to the reasons for making the recommendation.

Minister for Energy representing the Minister for Police: To move -

9/5 Page 2, lines 23 and 24 — To delete “must not be in force in relation to the area for a period that is more than 12 months.” and insert —

- (a) must not be in force in relation to the area for a period that is more than one month; and
- (b) may be repealed by the Minister by order published in the *Gazette*.

Minister for Energy representing the Minister for Police: To move -

10/15 Page 2, after line 24 — To insert —

- (3A) Subsection (2)(b) does not limit the power of the Governor to make regulations to repeal any regulations made for the purposes of subsection (1)(a).

Minister for Energy representing the Minister for Police: To move -

11/15 Page 2, lines 26 and 27 — To delete “times specified in the regulations.” and insert:

prescribed times.

Minister for Energy representing the Minister for Police: To move -

12/5 Page 3, after line 16 — To insert —

- (5A) The power to do a search of a person or vehicle under subsection (4) may only be exercised by, or under the supervision of, a senior police officer.

Minister for Energy representing the Minister for Police: To move -

13/5 Page 4, line 2 — To insert after “Commissioner” —

of Police

Minister for Energy representing the Minister for Police: To move -

14/5 Page 4, line 5 — To delete “public places.” and insert —

a public place.

Minister for Energy representing the Minister for Police: To move -

15/5 Page 4, after line 5 — To insert —

- (2A) The Minister may approve the making of a declaration in respect of an area only if satisfied that —
- (a) the powers in this Part, apart from section 70A, that may be exercised in the area are not sufficient; and
 - (b) it is necessary for the powers in section 70A to be exercised in the area.

Minister for Energy representing the Minister for Police: To move -

16/5 Page 4, line 17 — To delete “2 months” and insert:

14 days

Minister for Energy representing the Minister for Police: To move -

17/5 Page 4, after line 23 — To insert —

- (6A) The Commissioner —
- (a) may at any time revoke a declaration made under subsection (1); and
 - (b) must revoke a declaration made under that subsection if notified by the Minister that the Minister is no longer satisfied in relation to the matters relevant to the Minister’s approval under subsection (2A) of the making of the declaration.

- (6B) The Commissioner must publish notice of the revocation in the *Gazette* as soon as is practicable after the declaration is revoked, but the validity of the revocation is not affected by a failure to comply with this subsection.

Minister for Energy representing the Minister for Police: To move -

18/5 Page 4, lines 25 and 26 — To delete “subsection (1) to a Deputy Commissioner or an Assistant Commissioner.” and insert —

subsection (1), or the power or duty to revoke a declaration under subsection (6A), to a police officer who holds or is acting in the office of Deputy Commissioner.

Minister for Energy representing the Minister for Police: To move -

19/5 Page 4, after line 29 — To insert —

70C. Search notice to be given after police officer does basic search

- (1) This section applies if a police officer —
 - (a) has done a basic search of a person under section 70A(4)(a); and
 - (b) has exercised any of the powers referred to in section 63(1)(b), (c) or (d) in doing the basic search.
- (2) The police officer must give the person a notice (a *search notice*) that complies with subsection (4).
- (3) Subsection (2) does not apply —
 - (a) if it is not reasonably practicable to give the person a search notice; or
 - (b) if the person is offered a search notice and does not accept it.
- (4) A search notice complies with this subsection if it sets out the prescribed information in relation to the powers in section 70A that may be exercised by a police officer, including where and when those powers may be exercised.

70D. Publication of information about prescribed areas and declared areas

- (1) Subsection (2) applies if —
 - (a) regulations prescribe an area for the purposes of section 70A(1)(a); or
 - (b) the Commissioner of Police declares an area under section 70B(1).
- (2) The Commissioner of Police must —
 - (a) publish in a newspaper circulating throughout the State general information about the area that has been prescribed or declared; and
 - (b) make detailed information about that area available to the public on a website maintained by the Commissioner.
- (3) The validity of the regulations or the declaration is not affected by a failure to comply with subsection (2).

70E. Declarations to be laid before Parliament

The Minister must cause a copy of a declaration made under section 70B(1) to be laid before each House of Parliament within 14 sitting days of that House after the declaration is made.

70F. Department's annual report to include information about exercise of section 70A powers

- (1) In this section —

Department means the department of the Public Service principally assisting the Minister in the administration of this Act.

- (2) The annual report submitted by the accountable authority of the Department under the *Financial Management Act 2006* Part 5 must include the prescribed information about each exercise of the powers in section 70A during the relevant financial year.

70G. Review of sections 70A to 70F

- (1) The Minister must —

- (a) appoint a person (the *reviewer*) to carry out an independent review of the operation and effectiveness of sections 70A to 70F as soon as is practicable after —

- (i) the second anniversary of the commencement of the *Criminal Investigation Amendment Act 2009* section 5; and
(ii) the fourth anniversary of that commencement;

and

- (b) for each review to be carried out under paragraph (a), cause the name of the reviewer to be laid before each House of Parliament as soon as is practicable after the reviewer is appointed.

- (2) Without limiting subsection (1)(a), the reviewer must consider in the course of carrying out the review —

- (a) the purposes of sections 70A and 70B, as referred to in section 70AA(2); and
(b) the effect of the operation of section 70A on the public in the areas where the powers in that section have been exercised; and
(c) any views expressed by the public that relate to the exercise of those powers; and
(d) the effect of the exercise of those powers on the relationship between the public and police officers.

- (3) As soon as is practicable after completing the review, the reviewer must prepare a report based on the review and give the report to the Minister.

- (4) The Minister must cause a copy of the report to be laid before each House of Parliament within 3 months after receiving it.

70H. Expiry of sections 70AA to 70H

This section and sections 70AA to 70G expire on the fifth anniversary of the commencement of the *Criminal Investigation Amendment Act 2009* section 5.

Clause 6

Minister for Energy representing the Minister for Police:

20/6 Page 5, lines 1 to 13 — To oppose the clause.