

Terrorism (Preventative Detention) Amendment Bill 2007

EXPLANATORY MEMORANDUM

Clause 1. Short Title

Cites the short title of the Act as the Terrorism (Preventative Detention) Amendment Act 2007.

Clause 2. Commencement

The Act comes into operation on the day it receives Royal Assent.

Clause 3. The Act amended

Formally identifies the Act to be amended by this Act, being the *Terrorism (Preventative Detention) Act 2006*.

Clause 4. Section 31 amended.

Section 31 of the *Terrorism (Preventative Detention) Act 2006* provides that if a person is in detention under a preventative detention order and a warrant is in force under section 34D of the *Australian Security Intelligence Organisation Act 1979 (Cth)*, then the person is to be released from custody under the preventative detention order and placed into ASIO's custody.

The federal Parliament enacted ASIO's questioning and detention powers in 2002, subject to review by Parliamentary Joint Committee on Intelligence and Security (PJC). The PJC conducted its review in late 2005 and as a result of that review, ASIO's questioning powers were recast through the *ASIO Legislation Amendment Act 2006 (Cth)* which came into effect in late 2006.

As a result of the changes made by the *ASIO Legislation Amendment Act 2006 (Cth)*, the reference to section 34D of the *Australian Security Intelligence Organisation Act 1979 (Cth)* in section 31 of the *Terrorism (Preventative Detention) Act 2006* is now incorrect and should instead refer to the recast ASIO questioning and detention powers in Part III Division 3 of the *Australian Security Intelligence Organisation Act 1979 (Cth)*.

Clause 5. Section 32 amended

Section 32 of the *Terrorism (Preventative Detention) Act 2006* provides that a person can be released from preventative detention by a police officer and also provides that, other than in specific circumstances, the person is to be provided with a statement outlining that they have been released from preventative detention. Subsection 32(3)(a) currently contains a reference to section 34D of the *Australian Security Intelligence Organisation Act 1979 (Cth)*.

Consistent with the proposed amendment to section 31 of the *Terrorism (Preventative Detention) Act 2006*, section 32 also requires amendment to now refer to the recast ASIO questioning and detention powers in Part III Division 3 of the *Australian Security Intelligence Organisation Act 1979 (Cth)*.