

Criminal Investigation Amendment Bill 2009

EXPLANATORY MEMORANDUM

Clause 1. Short Title

Cites the short title of the Act as the *Criminal Investigation Amendment Act 2009*.

Clause 2. Commencement

Clauses 1 and 2 come into operation on Assent. The remaining provisions in the Bill come into operation the day after Assent.

Clause 3. The Act amended

Clause 3 specifies that the amendments contained in the Bill are amendments to the *Criminal Investigation Act 2006*.

Clause 4. Section 69 amended

Section 69 currently provides police officers with the power to search people and vehicles in a public place if the place is prescribed in Regulations or declared by a senior officer. A declaration can only remain valid for no more than 48 hours whereas, there is no restriction on prescribed areas. A police officer may conduct a basic search of a person, but must be conducted with the person's consent. If the person does not provide consent, the police officer may refuse entry to or remove the person from that place. Additionally, a police officer may seize any thing found on the person during the search if they reasonably suspect the thing may endanger the place or people within it, or if it is relevant to an offence.

This clause deletes section 69(1)(a) of the *Criminal Investigation Act 2006* which currently provides police officers with the power to search people and vehicles in a public place if the place is prescribed in Regulations. It has been decided to remove the provisions to declare such areas in Regulations and to instead simply enable a senior police officer to exercise the powers as is currently the case. More extensive powers for police officers, which can be exercised in areas declared in Regulations, are contained in proposed new section 70A of the *Criminal Investigation Act 2006* [see clause 5 of this Bill].

Clause 5. Sections 70A and 70B inserted

Proposed new section 70A of the *Criminal Investigation Act 2006* will provide police officers with powers to search people and vehicles that are in public places within a prescribed or declared areas, without the consent of the person and without the ordinary circumstances of reasonable suspicion. The type of search that can be

conducted by police officers is only a 'basic search' under the *Criminal Investigation Act 2006* which can include the use of metal detectors. When conducting a search police officers will be able to seize any thing that the officer suspects may endanger the public place or people in the place. Police officers will also be able to seize any thing relevant to an offence. The requirements on police officers in terms of seizure of things remain consistent with the requirements provided in section 69 of the *Criminal Investigation Act 2006*.

Proposed new section 70B of the *Criminal Investigation Act 2006* will provide a new power for the Commissioner of Police, with the approval of the Minister, to declare an area in which police officers can exercise the powers contained in proposed section 70A. The declaration may only remain in force for no longer than a period of two months and a written record of the declaration must be made. The requirements of providing such written record are consistent with section 69(3)(a)(b)&(d) of the *Criminal Investigation Act 2006*. Furthermore, the declaration must be published in the Government Gazette as soon as practicable after the declaration is made, but should this not occur, the declaration is to remain valid and not be affected by the non-compliance. The Commissioner will be able to delegate his power to a Deputy Commissioner or Assistant Commissioner. However, the person the power is delegated to can not further delegate that power.

Clause 6. Section 157 amended

Section 157 of the *Criminal Investigation Act 2006* provides for the relevant Minister to conduct a review of the Act after it has been in operation for 5 years. Section 157 is to be amended to require the Minister to carry out a review of the Bill's amendments in five years from the commencement of those amendments.