

EXPLANATORY MEMORANDUM

Terrorism (Preventative Detention) Bill 2005

OVERVIEW

The object of the Bill is to give effect in Western Australia to the decision of 27 September 2005 of the Council of Australian Governments that States and Territories introduce legislation on preventative detention of persons for up to 14 days to prevent terrorist acts or preserve evidence following a terrorist act.

It was recognised at COAG that there was a clear case to strengthen Australia's counter-terrorism laws because the nature of the terrorist threat means that police may need to intervene earlier to prevent a terrorist act with less knowledge than they would have using traditional policing methods.

This Bill has also been drafted with reference to the *Anti-Terrorism Act 2005 (Cmth) (No.2)* and is similar to the Acts enacted by other States:

Terrorism (Preventative Detention) Act 2005 (SA)

Terrorism (Police Powers) Amendment (Preventative Detention) Act 2005 (NSW)

Terrorism (Community Protection) (Amendment) Act 2005 (Vic)

Terrorism (Preventative Detention) Act 2005 (QLD)

Terrorism (Preventative Detention) Act 2005 (Tas)

This Bill imposes rigorous safeguards on the use of police powers, including full judicial review mechanisms and Parliamentary reviews.

The principal features of the scheme for preventative detention orders in this Bill are as follows:

(a) Preventative detention orders may be issued, on the application of a duly authorised police officer, in circumstances relating to preventing an imminent terrorist act or relating to preserving evidence of terrorist acts that have occurred.

(b) The Commissioner of Police may authorise a Western Australian police officer to apply to an issuing authority for a preventative detention order in relation to a person once the Commissioner is satisfied that there are reasonable grounds to believe that detaining the person is reasonably necessary. The Commissioner may delegate this responsibility, or in the Commissioner's absence, the Deputy Commissioner or an Assistant Commissioner may authorise an application.

(c) The Commissioner may authorise a police officer to apply to an issuing authority to issue a prohibited contact order. If the issuing authority is satisfied on reasonable grounds that it will assist in achieving the purpose of the preventative detention order, the person being detained will not be able to contact the person(s) listed in the order.

(d) Either a Supreme Court Judge acting in a personal capacity or a retired Supreme Court Judge will be able to issue a preventative detention order (either after detention under the provisions of the Commonwealth legislation or directly without any such prior Commonwealth detention) and prohibited contact orders.

(e) Once an issuing authority issues an order, the person must be taken into custody within 168 hours (7 days) of it being issued. If a person, that is the subject of the order, has not been detained within that time, the police must make a new application to the issuing authority.

(f) A terrorist act must be one that is imminent and that is expected to occur, in any event, at some time in the next 14 days.

(g) It does not matter where in Australia or overseas the terrorist act is expected to occur or has occurred.

(h) The police must seek to have both a preventative detention order and a prohibited contact order revoked if the grounds on which the orders were made cease to exist.

(i) An independent officer of Superintendent rank or higher must oversee the implementation of the both the preventative detention order and the prohibited contact order.

(j) The permitted detention period for a given order must not exceed 14 days. Time spent under another State preventative detention regime or the Commonwealth regime must be deducted from the 14 days. An example would be if a person was detained for 48 hours under the Commonwealth regime, they could only be detained for a maximum of 12 days under the State regime.

(k) Preventative detention orders cannot be applied for or made in relation to a person who is under 16 years of age. There are a number of specific provisions to allow 16 – 18 years olds and people incapable of managing their own affairs to have additional support and contact with parents or guardians or other specified people (as long as the people for which contact is sought are not subject to a prohibited contact order).

(l) As soon as practicable after a person is first taken into custody, or is in detention, the police must bring the person before the General Division of the Supreme Court for a review of the order. The person being detained and the person's lawyer may adduce evidence or make submissions to the Supreme Court.

(m) A person under 18 years of age or a person incapable of managing their own affairs may also have their parents or guardians or other specified persons present at the Supreme Court Review proceedings to make submissions on behalf of the person being detained.

(n) In the review proceedings the Supreme Court may confirm the order, quash and release the person from detention, remit the matter to an issuing authority with the

direction to revoke the order and replace it with a new order with a reduced detention period, or if the person has been released, declare the order void.

(o) Proceedings may be brought in a court for a remedy, including compensation, in relation to a preventative detention order or the treatment of the person while in detention.

(p) In the course of taking a person into detention or preventing the escape of person being detained by the police, a police officer must not use more force or subject the person to greater indignity than is reasonably necessary in the circumstances and must not use force which causes death or grievous bodily harm unless that force is used lawfully in self-defence or defence of another.

(q) A person while under a preventative detention order cannot be questioned other than for identification, safety and wellbeing purposes. However a person can be temporarily released for questioning by ASIO if an ASIO warrant is in force or to be dealt with according to law in relation to a suspected offence (whether or not the offence is one that the person is suspected of committing), which may include questioning by police. The time a person is taken out temporarily for questioning does not affect the period of time that they are in detention.

That is, if a person is taken out for questioning for 5 hours, it does not extend the preventative detention period by 5 hours.

(r) A person may be detained in police custody or in a State prison. Juveniles may be detained in either a juvenile detention facility or an adult prison as deemed appropriate to meet the required humanitarian and/or security standards. The Inspector of Custodial Services must be notified as soon as practicable after a person's detention in custody commences, irrespective of where the person is being detained, to observe that the detainee is treated humanely.

(s) Both the detained person and the lawyer will receive a copy of the order and summary of the grounds on which the preventative detention order is made.

(t) The detained person will only be able to contact a limited number of people for the purpose of letting the contacted people know that the detainee is safe but is not able to be contacted.

(u) Special contact rules apply for under 18 year olds and those incapable of managing their own affairs, in particular that they will be able to receive visits by family or guardian members

(v) A person being detained under a preventative detention order must be treated with humanity and respect for human dignity and must not be subjected to cruel, inhuman or degrading treatment.

(w) The person being detained is entitled to contact the Parliamentary Commissioner for Administrative Investigations to make a complaint in relation to an administrative matter, the Corruption and Crime Commission to make an allegation of misconduct,

and the Inspector of Custodial Services relating to the exercise of the jurisdiction of the Inspector.

(x) The Bill requires the Minister to table a quarterly report in Parliament about the number of preventative detention orders made during the quarter, whether a person was taken in custody and if so for what duration, the number of Supreme Court reviews conducted and the outcomes of the reviews and the number of prohibited contact orders made.

(y) Consistent with the *Terrorism (Extraordinary Powers) Bill 2005*, this Bill provides for a Parliamentary review after 12 months and 3 yearly reviews thereafter.

(z) Consistent with the Commonwealth legislation, the power to make orders under the Act expires after 10 years; and any order then in force expires.

Terrorism (Preventative Detention) Bill 2005

CLAUSE NOTES

Part 1 – Preliminary

Clause 1. Short Title:- The Bill's title is the *Terrorism (Preventative Detention) Act 2005*.

Clause 2. Commencement:-

The Act is to come into operation on the day on which it receives the Royal Assent.

Clause 3. Object:-

The object of this Act is to allow a person to be taken into custody and detained in order to —

- (a) prevent a terrorist act occurring in the near future; or
- (b) preserve evidence of, or relating to, a recent terrorist act.

Clause 4. Interpretation:-

Contains definitions of terms and expressions used throughout the Act. These terms have been defined to ensure the provisions of the Act are interpreted and applied in the manner intended.

Clause 5. “Reasonably suspects”, meaning of:-

“Reasonable suspicion” is the basis for the exercise of powers by police officers under the Act. The definition indicates the required degree of knowledge that the police must have in order to exercise powers under the Act.

Clause 6. “Terrorist act”, meaning of:-

The definition of “terrorist act” is consistent with the terms contained in Clause 100.1 Part 5.3 of the Commonwealth Criminal Code.

Clause 7. Issuing Authorities:-

This clause sets out the requirements and process by which a Western Australian Supreme Court judge or retired judge may be appointed by the Governor as an issuing authority for preventative detention orders.

Clause 8. Police officer on whom functions as to preventative detention are imposed: -

This clause places responsibility for performing a statutory function on the most senior of a number of police officers involved in the detention of a person under a preventative detention order.

Part 2 – Preventative Detention Orders

Clause 9. Basis for applying for and making preventative detention orders:-

This clause, in similar terms to the Commonwealth Bill, sets out the circumstances in which a preventative detention order may be made to achieve the objects of the Act.

Clause 10. Authorising police officers to apply for a preventative detention order:-

Enables the Police Commissioner to authorise in writing, except in specified circumstances, a police officer to apply for a preventative detention order if the Commissioner is satisfied that there are reasonable grounds to believe that those circumstances under proposed Section 9 exist.

Clause 11. Application for a preventative detention order:-

This clause sets out the matters that must be contained in an application for a preventative detention order to an issuing authority.

Clause 12. Procedure for applying for preventative detention order:-

Clause 12 sets out the procedure for applying to an issuing authority for a preventative detention order. Generally, applications will be made in person unless there is an urgent need to obtain an order in which case an application can be made by way of remote communication [telephone, fax, email, radio etc] or orally. The clause also provides that generally applications must be made on oath unless the application is being made by remote communication and it is not possible for the issuing authority therefore to administer an oath to an applicant or the issuing authority is not a judge.

Where the order is granted by way of remote communication, then the issuing authority must send a copy of the order to the applicant. Alternatively, the issuing authority can relay to the applicant the information that must be set out in the order; the applicant then completes the form of the order and sends a copy of the form of the order to the issuing authority.

Clause 13. Preventative detention orders:-

Clause 13 empowers the issuing authority to make preventative detention orders. The issuing authority can make the order if satisfied on reasonable grounds of specified matters including that the detention of the subject is necessary to prevent an imminent terrorist act (i.e. expected to occur within the next 14 days) from occurring or to preserve evidence relating to a terrorist act that has occurred within the last 28 days.

The permitted detention period must not exceed 14 days or a shorter period if the person has been detained under a corresponding preventative detention law.

An order will expire after 7 days if the person has not been taken into custody under the order.

If the person in relation to whom the order is made is under 18 years of age, or is incapable of managing his or her affairs, the order may provide that the aggregate period each day for which the person is entitled to have contact with another person or other persons under proposed section 44(2) is the period of more than 2 hours.

Clause 14. Duration of preventative detention orders:-

This clause specifies when an order commences and ceases to have effect. A preventative detention order expires if the person has not been taken into custody

within 7 days of the order being made. Alternatively if the person has been taken into custody then it expires:

- at the end of the period of detention specified in the order (maximum 14 days), or
- upon the revocation of the order by the issuing authority, or as directed Supreme Court, or
- then the order is quashed or declared to be void by the Supreme Court.

Clause 15. Multiple preventative detention orders:-

This clause provides restrictions on making further applications for a preventative detention order in respect of a person who has already been detained under a preventative detention order on the grounds that their detention would prevent a terrorist act. More than one order can be made authorising the detention for the same person in relation to the same terrorist act. However the order cannot exceed 14 days when aggregated with any period or periods of actual detention in relation to a terrorist act that is based on the same or consistent information of when the act is expected to occur as submitted to the issuing authority in support of the application.

Clause 16. No preventative detention order in relation to a person under 16 years of age:-

An order cannot be made in relation to a person under 16 and, if a police officer who is detaining a person under an order is satisfied on reasonable grounds that the person is under 16, the person must be released by the police.

Clause 17. Prohibited contact order (person in relation to whom preventative detention order is being sought):-

A prohibited contact order may be applied for and made in conjunction with a preventative detention order if the issuing authority is satisfied on reasonable grounds that it will assist in achieving the purpose of the preventative detention order. The order prohibits the detainee, while being detained, from contacting a specified person(s).

Clause 18. Prohibited contact order (person in relation to whom preventative detention order is already in force):-

A prohibited contact order may also be sought by a police officer and made by an issuing authority subsequent to the making of a preventative detention order if that authority is satisfied that the contact will order will assist in achieving the object for which the detention order was made.

Clause 19. Form and notification of prohibited contact order:-

This clause specifies that the prohibited contact order must be in writing unless there is an urgent need to obtain an order in which case an application can be made by way of remote communication [telephone, fax, email, radio etc] or orally. The clause also provides that generally applications must be made on oath unless the application is being made by remote communication and it is not possible for the issuing authority therefore to administer an oath to an applicant or the issuing authority is not a judge.

Clause 20 Revocation of preventative detention order or prohibited contact order:-

This clause provides for revocation of an order if the grounds on which the order was made cease to exist.

Clause 21 Status of person making preventative detention order:-

An issuing authority is given the same protection and immunity as a Judge of the Supreme Court. Functions conferred on a judge are conferred on the judge in a personal capacity and not as a court or a member of a court.

Part 3 – Review of Preventative Detention Orders**22. Review by Supreme Court:-**

As soon as practicable after a person is detained under a preventative detention order, the police officer detaining the person must bring him or her before the Supreme Court for a review of the order. The Supreme Court may, however, relieve the police officer from the obligation to bring the subject before the Court and conduct the review proceedings by remote communication if satisfied that is it appropriate in the circumstances to do so.

If the order was made by a judge, the court in the review proceedings is not to be constituted by or so as to include that judge.

A police officer, lawyer representing the police officer, the subject and lawyer acting for the subject may adduce evidence or make submissions to the Supreme Court in the review proceedings. Persons under 18 years or incapable of managing their own affairs may also have another person that they are permitted to have contact with, make submissions on their behalf.

On a review the Supreme Court may exercise any of the following powers:

- (1) it may confirm the order
- (2) it may quash the order and release the subject from detention;
- (3) it may remit the matter to the issuing authority with a direction to revoke the order and replace it with a new preventative detention order such that the period for which the subject may be in detention is reduced;
- (4) It may give directions about the making of further preventative detention orders
- (5) If the subject has been released from detention, it may declare the order to have been void

A quashing or declaring void of an order does not, under proposed section 56(2), preclude a person applying to the Supreme Court for compensation.

Clause 23. Powers may be exercised while review is in progress:-

Subject to any direction made by the Supreme Court in proceedings for the review of a preventative detention order, an issuing authority may during the course of the proceedings revoke the order; or make a further order in relation to the person concerned.

The police officer detaining the person concerned may release the person during the course of the Supreme Court review proceedings.

Part 4 - Carrying out preventative detention orders

Clause 24. Power to detain person under preventative detention order:-

Any police officer may take a person into custody and detain the person under a preventative detention order.

When a preventative detention order is made, the Commissioner of Police must nominate a senior police officer to oversee the exercise of powers under, and the performance of obligations in relation to, the preventative detention order. The senior officer must be someone who was not involved in the making of the application for the preventative detention order.

The detainee, the detainee's lawyer, and a parent/guardian or other person with whom a detainee who is a child or is incapable of managing his or her affairs has had contact, may make representations to the nominated senior police officer

25. Endorsement of order with date and time person taken into custody:-

The order must be endorsed with the date and time when the person is first taken into custody.

26. Exercising powers, general matters:-

This clause specifies the circumstances under which a police officer must identify himself or herself to a person in relation to whom the police may be or are exercising a power in relation to carrying out a preventative detention order.

27. Personal details of certain people may be obtained:-

A police officer may require a person who the police officer believes on reasonable grounds may be able to assist in executing a preventative detention order to provide his or her name and address.

28. Power to enter places:-

A police officer may enter premises to search for a person to be detained under an order if the police officer believes on reasonable grounds that the person is on the premises. However, a police officer must not enter any place that is used for residential purposes between 9pm and 6am unless the police officer believes on reasonable grounds that—

- it would not be practicable to take the person into custody, either at the dwelling house or elsewhere, at another time; or
- it is necessary to do so in order to prevent the concealment, loss or destruction of evidence of, or relating to, a terrorist act.

29. Use of Force:-

In the course of taking a person into detention or preventing the escape of person being detained by the police, a police officer must not use more force or subject the person to greater indignity than is reasonably necessary in the circumstances and must not use force which causes death or grievous bodily harm unless that force is used lawfully in self-defence or defence of another.

30. Power to search people:-

This clause sets out the circumstances and applies procedures as set out in schedule 2 which a police officer must comply with when conducting a basic search

or strip search of a person taken into custody under a preventative detention order. The police officer must suspect on reasonable grounds that it is prudent to do so in order to ascertain whether the person is carrying any seizable items or evidence of, or relating to, a terrorist act,

31. Warrant under section 34D of the *Australian Security Intelligence Organisation Act 1979*:-

This clause applies when an ASIO warrant is issued and given to the police officer who is detaining the person under the preventative detention order. The police officer must take such steps as are necessary to ensure that the person may be dealt with in accordance with the warrant. The fact that the person is released from detention under the preventative detention order so that the person may be questioned before a prescribed authority under the warrant; or detained under the warrant in connection with that questioning, does not extend the period for which the preventative detention order remains in force in relation to the person.

32. Release of person from preventative detention:-

A police officer detaining a person under a preventative detention order may release the person from detention. Written notice of the release must be given to the person unless the person is to be dealt with

- (a) under an ASIO warrant; or
- (b) under the provisions of Division 4 of Part IAA, or Part IC, of the *Crimes Act 1914* of the Commonwealth; or
- (c) according to law in relation to a suspected offence (whether or not the offence is one that the person is suspected of committing).

If the period of detention has not expired, the person may be taken back into custody under the order after being released (ie the release under the preventative detention order can be temporary).

33. Arrangement for person to be in detention in a prison or detention centre:-

A senior police officer may arrange for a detainee to be detained at a prison or detention centre.

33A. Inspector of Custodial Services to be notified of detention

As soon as practicable after a person is first taken into custody the senior police officer responsible for the detainee must give the Inspector of Custodial Services a copy of the order and notify the Inspector as to where the person is being detained.

Part 5 — Informing person detained about preventative detention order

34. Effect of preventative detention order to be explained to person detained:-

This clause sets out matters that must be explained by a police officer to a person being taken into custody under an order. If the person is detained in a prison or detention centre, the person in charge of the institution must, as soon as practicable after the person's detention in the institution begins, notify the person of the person's entitlement under section 41(3) to contact the Inspector of Custodial Services. The clause does not require the police officer to inform the person in detention of the fact that a prohibited contact order has been made in relation to the person's detention, or the name of a person specified in a prohibited contact order that has been made in relation to the person's detention.

35. Compliance with duties to inform:-

A police officer need not comply with the requirements to inform a person detained under an order if the actions of the detainee make it impracticable to do so. It is enough if the police officer informs the person in substance of these matters. An interpreter must be provided if the police officer has reasonable grounds to believe that the person is unable to communicate with reasonable fluency in the English language.

36. Copy of preventative detention order and summary of grounds:-

A detainee is to be given a copy of the order, a summary of the grounds on which the order is made and of any extension of the order and can request that a copy be given to a lawyer. There is no requirement to provide a copy of a prohibited contact order.

Part 6 — Treatment of person in detention**37. Application of Part:-**

This Part specifies that it applies to and in relation to a person who is in detention under a preventative detention order.

38. Humane treatment of detainee:-

A person being taken into custody, or being detained, under a preventative detention order must be treated with humanity and with respect for human dignity, and must not be subjected to cruel, inhuman or degrading treatment, by anyone exercising authority under the order or implementing or enforcing the order.

The Inspector of Custodial services may, at any time, review the detainee's detention to determine with the person is being treated humanely. The Inspector may, at any time, report to the Commissioner of Police and the senior police officer responsible for the detainee, on any matter relating to the humane treatment of the detainee and give advice and make recommendations as considered appropriate.

39. Restriction on contact with other people:-

Subject to proposed sections 40, 41, 42 and 44, while a person is being detained under a preventative detention order, the person is not entitled to contact another person, and may be prevented from contacting another person unless it is in relation to performing the functions under the order.

40. Contacting family members and home or work associates:-

This clause specifies the people a person may contact when in detention for the purposes of letting the person contacted know that the detainee is safe but is not able to be contacted for the time being. The detainee is not entitled to disclose —

- (a) the fact that a preventative detention order has been made in relation to the detainee;
- (b) the fact that the detainee is in detention; or
- (d) the period for which the subject is to be kept in detention.

41. Contacting Parliamentary Commissioner, Corruption and Crime Commission or Inspector of Custodial Services:-

The person being detained is entitled to contact the Parliamentary Commissioner for Administrative Investigations to make a complaint in relation to an administrative matter, the Corruption and Crime Commission to make an allegation of misconduct, and the Inspector of Custodial Services relating to the exercise of the jurisdiction of the Inspector.

42. Contacting lawyer:-

This clause sets out the circumstances under which a person being detained is entitled to contact a lawyer for the purpose of obtaining advice from the lawyer about the person's legal rights. Certain assistance must be provided by the police to a detainee in relation to assisting the detainee to choose a lawyer. A prohibited contact order may override this entitlement in relation to a particular lawyer.

43. Monitoring contact with family members, home or work associates or lawyer:-

Contact with family members may take place only if it is conducted in such a way that the contact, and the content and meaning of the communication that takes place during the contact, can be effectively monitored by a police officer exercising authority under the preventative detention order.

If the lawyer representing the detainee has a current security clearance to "Secret" level then the contact can only be monitored if the Issuing Authority issues an order allowing the monitoring to occur. The discretion for the senior police officer nominated to monitor contact with lawyers without "Secret" clearance is retained.

The contact with the family members or lawyer may only be in a language other than English if an interpreter is present.

Any communication monitored between the detainee and a lawyer is not admissible in evidence against the detainee in any proceedings in a court.

44. Special contact rules for people under 18 or incapable of managing their own affairs:-

This clause sets out the special contact rules and entitlements for people under 18 or incapable of managing their own affairs.

45. Disclosure offences:-

Offences are established in relation to intentional disclosure of matters relating to preventative detention orders. Detainees, lawyers, parents/guardians and interpreters are all obliged not to disclose information relating to preventative detention orders. Police officers who monitor contact with a lawyer are obliged not to disclose information communicated in the course of the contact.

46. Detainee not to be questioned while in detention:-

The only questioning that can take place during detention is questioning for the purposes of—

- (a) determining whether the person is the person specified in the order; or
- (b) ensuring the safety and well being of the person being detained; or

(c) allowing the police officer to comply with a requirement of the measure in relation to the person's detention under the order.

47. Taking identification material:-

This clause specifies the circumstances when a police officer may take identification material, or cause identification material to be taken, from the detainee.

48. Use of identification material:-

The identification material may be used only for the purpose of determining whether the person is the person specified in the order. The material must be destroyed after 12 months if not then required for specified purposes.

49. Offences of contravening safeguards:-

An intentional contravention of the listed provisions is an offence.

Part 7 — Miscellaneous

50. Commissioner's functions may be performed by others:-

This clause sets out the circumstances in which the Commissioner may delegate the responsibility to authorise an application for a preventative detention order. In the Commissioner's absence, the Deputy Commissioner or an Assistant Commissioner may authorize an application.

51. Nature of functions of Magistrate:-

The functions of a Magistrate in relation to the taking of identification material are conferred on the Magistrate in a personal capacity and not as a court or a member of a court. The Magistrate is given the same protection and immunity as if the function were performed as, or as a member of, the Magistrates Court.

52. Restrictions on publicity about proceedings in Supreme Court:-

This clause specifies that despite any rule or practice to the contrary, proceedings under the measure are not to be conducted in public nor publicised in any public list of the Supreme Court's business.

The Supreme Court must establish appropriate procedures to ensure that information about the Court's proceedings on review of a preventative detention order under the measure, and any other proceedings brought before the Court in relation to a preventative detention order or a prohibited contact order is confined within the narrowest possible limits.

The Court is not, however, required to suppress the publication of information if the Minister authorises its publication, or the Court determines that the publication of the information could not conceivably prejudice national security and that its publication should be authorised in the public interest.

53. Quarterly report about preventative detention orders:-

The Minister must, by 31 January, 30 April, 31 July and 31 October in each year, cause a report to be prepared about the operation of this Act during the previous quarter. The report must include the following information —

- (a) the number of preventative detention orders made under section 13 during the quarter;
- (b) whether a person was taken into custody, or kept in custody, under each of those orders and, if so, how long the person was in detention for;
- (c) the number of reviews conducted under Part 3 during the quarter and the outcome of the reviews;
- (e) the number of prohibited contact orders made under sections 17 and 18 during the quarter.

54. Powers of others not affected:-

This clause specifies that the Act does not affect —

- (a) a function under the *Parliamentary Commissioner Act 1971* of the Parliamentary Commissioner;
- (b) a function under the *Corruption and Crime Commission Act 2003* of the Corruption and Crime Commission, the Commissioner (within the meaning of that Act) or the Parliamentary Inspector;
- (c) a function under the *Inspector of Custodial Services Act 2003* of the Inspector of Custodial Services; or
- (d) a function under the *Prisons Act 1981*, or the *Young Offenders Act 1994*, of a visiting justice.

The Parliamentary Commissioner and the Inspector of Custodial Services must first consult with the Commissioner of Police before disclosing information or making a statement in relation to the person or the detention under section 23(1b) *Parliamentary Commissioner Act 1971* and section 46(1) *Inspector of Custodial Services Act 2003*.

55. Law relating to legal professional privilege not affected:-

The Act does not affect the law relating to legal professional privilege.

56. Legal proceedings in relation to preventative detention orders:-

Proceedings may be brought in a court for a remedy, including compensation, in relation to a preventative detention order, or the treatment of a person in connection with the person's detention under such an order.

57. Regulations:-

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.

58. Review of Act:-

The Minister must carry out a review of this Act as soon as is practicable after —

- (a) the first anniversary; and
- (b) the expiry of each 3 yearly interval after the first anniversary.

The review must review the operation and effectiveness of this Act, whether its provisions are appropriate having regard to its object, and whether it should continue in operation. It must be tabled before each house of Parliament.

59. Expiry of orders and power to make them:-

A preventative detention order, or a prohibited contact order, that is in force at the end of 10 years after the day on which the Act commences ceases to be in force at that time.

A preventative detention order, and a prohibited contact order, cannot be applied for, or made, after the end of 10 years after the day on which the Act commences.