



New South Wales

Law Enforcement Legislation Amendment (Public Safety) Bill 2005

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

Overview of Bill

The object of this Bill is to provide for a range of law enforcement and other criminal justice measures to deal with large-scale public disorder in any area for the purposes of securing public safety. For the purposes of the Bill, a public disorder is a riot or other civil disturbance that gives rise to a serious risk to public safety, whether at a single location or resulting from a series of incidents in the same or different locations. The legislative provisions made by this Bill will generally sunset after 2 years.

Emergency powers—liquor restrictions

The Bill amends the *Law Enforcement (Powers and Responsibilities) Act 2002* as follows:

- (a) A senior police officer may authorise police officers to impose an emergency closure of licensed premises (or a prohibition on the sale or supply of liquor from any such premises) in an area if it will reasonably assist in preventing or controlling a large-scale public disorder. Such a closure or prohibition is limited to a maximum total period of 48 hours.

* Amended in committee—see table at end of volume.

- (b) A senior police officer may establish an emergency alcohol-free zone (in which drinking or the immediate possession of liquor is prohibited) to assist in preventing or controlling a large-scale public disorder. The establishment of such a zone is limited to a maximum total period of 48 hours.

Emergency powers—lockdown areas and roadblocks

The Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to authorise the exercise in public places of special police powers in relation to large-scale public disorders. The amendments provide for the following:

- (a) The Commissioner or a Deputy or Assistant Commissioner of Police may authorise the use of the special powers in a targeted area (or on a road leading to an area) if there is a large-scale public disorder occurring (or a threat of such a disorder in the near future) in the area and is satisfied that the powers are reasonably necessary to prevent or control the public disorder.
- (b) The authorisation may be given for a maximum total period of 48 hours but may be extended beyond that period with the approval of the Supreme Court.
- (c) The special powers include a power to cordon off a targeted area (so as to prevent persons entering or leaving the area) or to set up a roadblock on targeted roads (so as to prevent persons travelling by vehicle to participate in a public disorder). In a targeted area or at a roadblock, police officers may exercise powers to stop and search persons and vehicles, require persons to disclose their identity and to seize and detain vehicles, mobile phones and other communication devices for up to 7 days.
- (d) The operation of these and the other emergency powers mentioned above are to be monitored by the Ombudsman.

Offences of assault, riot and affray

The Bill amends the *Crimes Act 1900* as follows:

- (a) The maximum penalty for assault is increased (where the assault is committed during a large-scale public disorder) from 2 years imprisonment to 5 years or to 7 years if it occasions actual bodily harm.
- (b) The maximum penalty for the offence of riot is increased from 10 years imprisonment to 15 years and for the offence of affray is increased from 5 years imprisonment to 10 years.

Bail—public disorder offences

The Bill amends the *Bail Act 1978* to provide a presumption against bail for the offence of riot or any other offence punishable by imprisonment for 2 years or more that is committed in the course of the accused participating in a large-scale public disorder, or that is committed in connection with the exercise of police powers to prevent or control such a disorder or the threat of such a disorder.

Police powers with respect to vehicles

The Bill also amends the *Law Enforcement (Powers and Responsibilities) Act 2002* to make on-going provision for the following police powers (whether or not related to a public disorder):

- (a) Police officers are expressly empowered to stop vehicles for the purpose of exercising police powers of arrest, detention or search.
- (b) Police officers are empowered to require occupants of vehicles connected with indictable offences to disclose the identity of previous drivers of or passengers in such vehicles.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Law Enforcement (Powers and Responsibilities) Act 2002* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Crimes Act 1900* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the *Bail Act 1978* set out in Schedule 3.

Clause 6 is a formal provision that gives effect to a consequential amendment to the *Criminal Procedure Act 1986* set out in Schedule 4 (relating to the amendments to the *Crimes Act 1900* concerning assault).

Schedules 1–4 contain the amendments referred to in the above Overview.