

CLAUSE NOTES

Terrorism (Restrictions on Bail and Parole) Bill 2017

PART 1 - PRELIMINARY

Clause 1: Short title

Clause 1 cites the Act as the *Terrorism (Restrictions on Bail and Parole) Act 2017*.

Clause 2: Commencement

Clause 2 provides for the provisions of the Act to commence on a day or days to be proclaimed.

PART 2 – BAIL ACT 1994 AMENDED

Clause 3: Principal Act

Clause 3 provides that in Part 2, the Principal Act to which the amendments apply is the *Bail Act 1994*.

Clause 4: Part 1A inserted

Clause 4 inserts Part 1A into the *Bail Act 1994*.

Part 1A provides for several matters relating to bail for terrorism-linked persons.

New section 4A provides definitions, including defining the term 'terrorism-linked person' to mean a person who has been convicted of a terrorism offence, or a person who is subject to a control order.

New section 4B limits the circumstances in which a terrorism-linked person can be admitted to bail. It provides that a terrorism-linked person must not be admitted to bail except by a judge or magistrate who is satisfied that there are exceptional circumstances.

New section 4C provides powers for police officers to arrest, in certain circumstances, terrorism-linked persons who have been admitted to bail. Section 4C also provides that where such a person is arrested their bail is suspended, and if the person is later released unconditionally the suspension no longer applies.

New section 4D provides discretionary powers for a judge, magistrate or court to make orders in relation to bail proceedings for a terrorism-linked person, or a person who is alleged to be a terrorism-linked person. These powers allow for orders to be made for proceedings to be heard in a closed court, to limit who can be present during

proceedings, and to prohibit the publication of certain information relating to the proceedings.

PART 3 – CORRECTIONS ACT 1997 AMENDED

Clause 5: Principal Act

Clause 5 provides that in Part 3 the Principal Act to which the amendments apply is the *Corrections Act 1997*.

Clause 6: Section 72 amended (Release on parole)

Clause 6 amends section 72 by inserting subsection (1A) into the *Corrections Act 1997*.

Subsection (1A) provides that the Parole Board must notify the Commissioner of Police 7 days before the Board considers whether to release a prisoner on parole.

Clause 7: Part 8, Division 2A inserted

Clause 7 inserts Division 2A into Part 8 of the *Corrections Act 1997*.

New section 83AA provides a number of definitions relevant to parole for prisoners who have, or who are alleged to have, links to terrorism. It defines 'terrorism-linked prisoner' to mean a prisoner who has been convicted of a terrorism offence, or who is subject to a control order. It also sets out the meanings of 'terrorist act' and 'a prisoner promoting a terrorist act' for the purposes of Division 2A.

New section 83AB provides that the Parole Board must not release a prisoner on parole if the Board is satisfied that the prisoner is a terrorism-linked prisoner, or the prisoner has promoted a terrorist act. However, new section 83AB permits the Board to release a prisoner who falls within these categories if the Board is satisfied that there are exceptional circumstances.

New section 83AC requires the Parole Board to revoke a prisoner's parole if satisfied of certain matters.

New section 83AD provides circumstances in which the Parole Board must exercise its powers to issue a warrant in relation to a prisoner released on parole. New section 83AD also provides powers for police officers to arrest, in certain circumstances, a prisoner who has been released on parole.

New section 83AE provides an express power for the Board to receive and take into account relevant information provided by a Commonwealth, State, or Territory agency or body.

New section 83AE also provides powers for the Board and courts to make orders in relation to parole proceedings, including powers to limit or prevent access to proceedings, and powers to limit or prevent the publication of certain information.

Clause 8: Section 92A inserted

Clause 8 inserts new section 92A into the *Corrections Act 1997*.

New section 92A provides that the amendments that the Act makes to the *Corrections Act 1997* apply to prisoners whether or not the prisoner is released on parole before or after the commencement of the provision. New section 92A also provides that the new provisions apply to an application for the release from prison on parole of a prisoner, regardless of whether the application was made before or after the commencement of the provision.

PART 4 – CONCLUDING PROVISION

Clause 9: Repeal of Act

Clause 9 inserts a repeal provision to remove the empty shell of the Bill after its provisions have come into effect.