

DRAFT SECOND READING SPEECH

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Terrorism Legislation (Extension) Bill 2025

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Honourable Speaker, I move that the Bill now be read a second time.

This Bill contains amendments that extend the operation of the *Police Powers (Public Safety) Act 2005* and the *Terrorism (Preventative Detention) Act 2005* for a period of 10 years to 31 December 2025. Both Acts are due to expire at the end of this year.

It is legislation like this that makes us pause and reflect about some of the biggest world events over the last 25 years and how we, as a country and as a State, responded. It also causes us to look forward and consider what protections are necessary to ensure our police, law enforcement, intelligence and prosecution agencies are appropriately equipped to respond to threats and acts of terrorism.

Following the 11 September 2001 attacks on the World Trade Centre and Pentagon in the United States and the 2002 Bali Bombings, Australian states and territories signed the Intergovernmental Agreement on Counter-Terrorism Laws in 2004.

This led to the introduction of state-based counter terrorism legislation to include the expansion of police powers in certain circumstances and a preventative detention regime. As a result, the Public Safety Act and the Preventative Detention Act were introduced in Tasmania in 2005.

Honourable Speaker, the introduction of the regime on a national basis was to ensure that there is consistency in relation to the powers available to our security agencies and there are no vulnerabilities in the ability of any jurisdiction to protect its community against terrorist acts.

In Tasmania, the Public Safety Act provides police officers with necessary powers to ensure the safety of the public where there is a potential terrorist threat to a significant event or essential infrastructure, or where a terrorist act has occurred. Following a grant of authorisation, police officers can stop, search and question people, search vehicles and seize and detain things.

The Preventative Detention Act provides for an authorised person to seek the detention of a person for up to 14 days in order to prevent an

imminent terrorist act occurring or preserve evidence of, or relating to, a recent terrorist act.

Both Acts contain appropriate safeguards. For example, the Public Safety Act requires approval of the Premier, and in some cases the Supreme Court, to exercise the range of powers. The Preventative Detention Act restricts multiple preventative detention orders being made and provides that a detainee may apply to the Supreme Court for revocation or variation of an order.

A preventative detention order cannot be made in relation to a person who is under 16 years of age and a person detained is entitled to contact the Ombudsman and a lawyer to obtain legal advice. A person 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.

Honourable Speaker, neither Act has been used in Tasmania to date and in fact preventative detention orders, or PDOs, have been used sparingly around the country. This supports the intended purpose of the Acts, to be extraordinary measures used in very serious circumstances. Three PDOs have been issued in New South Wales in 2014 and one in Victoria in 2015.

Both Acts were set to expire in 2015, on the tenth anniversary of the day of commencement. The Acts include a sunset clause to ensure they will be subject to Parliamentary scrutiny should they be remade. This is because of the extraordinary measures and powers provided for in the Acts. They depart from the usual warrant-based authorisation requirements, and therefore Governments around Australia have mandated they be reviewed regularly.

They were extended to 31 December 2025 following the Final Report of the Council of Australian Governments Review of Counter-Terrorism Legislation in 2013 and the 2nd Annual Report of the Independent National Security Legislation Monitor in 2012. These reports agreed that PDOs should be retained, as their ongoing availability would ensure that law enforcement agencies had a legal basis on which to take action to prevent a terrorist attack or preserve evidence in the immediate aftermath of a terrorist act, where an arrest or a prosecution is not considered to be open but a person nonetheless presents a credible risk to public safety.

Some procedural and technical amendments were made to the Preventative Detention Act at this time, for example providing that both the applicant and the senior police officer or Supreme Court must be satisfied that it is 'reasonably necessary' as opposed to 'necessary' to

detain the person to preserve evidence relating to a terrorist act. Another change was enabling police officers to apply for PDOs orally or electronically in urgent circumstances. No substantive changes were made to the Public Safety Act.

Honourable Speaker, since 2015, there have been various reviews conducted in other states as well as at the Commonwealth level. The Victorian Government appointed an expert panel to consider terrorism and violent extremism prevention and response powers in 2017, which handed down two reports. In 2017 the New South Wales State Coroner handed down findings and recommendations from the Inquest into the deaths arising from the Lindt Café siege in 2014. Also in 2017, the Independent National Security Legislation Monitor conducted reviews of the Commonwealth's police powers and PDO regime. In 2018 and 2021 the Commonwealth Parliamentary Joint Committee on Intelligence and Security considered the Commonwealth's police powers and PDO regime.

The overall message from these various reviews is that a conclusion of redundancy does not automatically follow from the non-use of a particular law enforcement tool. The reviews found that the powers afforded to police under the Public Safety Act and Preventative Detention Act are necessary and should continue. They are important "tools in the belt" for our police and other law enforcement, intelligence and prosecution agencies.

This is supported by the position of other states and territories. Equivalent legislation in Queensland expires in 2040, Victoria in 2031, the Australian Capital Territory in 2027, the Commonwealth, New South Wales and Northern Territory in 2026 and South Australia and Western Australia at the end of 2025. South Australia intends to extend its legislation for 10 years and Western Australia for 2 years to synchronize their respective Acts which currently have different expiry dates.

Currently, Australia's general terrorism threat level is 'probable' – that is, there is a greater than 50% chance of an onshore attack or attack planning in the next 12 months. The Australian Security Intelligence Organisation (ASIO) notes:

Australia's security landscape has entered a vulnerable period and is being challenged by new threats with concerning trajectories. Our landscape is a reflection of the social and political environment in which we live – social cohesion is lower, and trust in governments and democratic processes globally is eroding.

ASIO is observing the emergence of domestic actors increasingly driven to action by socio-political issues, intersecting with personal

grievances. There is an increase in extremism, fuelled by conspiracy theories and anti-authority ideologies. Some actors hold a blend of ideologies, including those that justify acts of violence to influence change.

Although the threat to Tasmania and Australia has evolved since 2005, it remains real. It is marked by an increase in the threat of smaller-scale opportunistic attacks by lone actors and often driven by social media. For example, in the last couple of years we've seen in the media:

- the first criminal prosecutions of persons conducting a nazi salute in Victoria and the Australian Capital Territory,
- the first conviction of a person transmitting violent extremist material online in Western Australia,
- the Melbourne synagogue arson attack in December 2024, and
- various prosecutions of young people possessing violent extremist material in New South Wales and the Australian Capital Territory.

Honourable Speaker, the Bill is important for this reason. It will retain Tasmania's security framework and preserve national consistency.

I will conclude by highlighting the ongoing work in this space across the country, to ensure counter-terrorism legislation remains fit for purpose. Western Australia is currently undertaking a statutory review of its legislation, and the Independent National Security Legislation Monitor is undertaking a review of the definition of a 'terrorist act' in the Commonwealth's *Criminal Code Act 1995*. Importantly, this definition is used in Tasmania's Public Safety Act and Preventative Detention Act. Relevant Tasmanian agencies are contributing to this review.

Honourable Speaker, the Government is committed to ensuring this legislation remains effective and will consider the findings of the various reviews in determining whether further reform of these Acts in a future Bill would improve their operation.

I commend the Bill to the House.