



Queensland

# **Terrorism Legislation Amendment Act 2007**

**Act No. 34 of 2007**





Queensland

# Terrorism Legislation Amendment Act 2007

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	6
2	Commencement . . . . .	6
<b>Part 2</b>	<b>Amendment of Disaster Management Act 2003</b>	
3	Act amended in pt 2 . . . . .	6
4	Amendment of s 9 (Directions about powers under other Acts during disaster situation) . . . . .	6
<b>Part 3</b>	<b>Amendment of Police Powers and Responsibilities Act 2000</b>	
5	Act amended in pt 3 and schedule . . . . .	7
6	Amendment of sch 6 (Dictionary) . . . . .	7
<b>Part 4</b>	<b>Amendment of Public Safety Preservation Act 1986</b>	
7	Act amended in pt 4 and schedule . . . . .	8
8	Amendment of long title . . . . .	8
9	Replacement of s 4A (Notes) . . . . .	8
	4A Relationship with another declaration under another Act . . . . .	8
10	Amendment of s 5 (Declaration of emergency situation) . . . . .	8
11	Replacement of s 7 (Power to delegate) . . . . .	9
	7 Power to delegate . . . . .	9
12	Insertion of new pt 2A. . . . .	10
	Part 2A Terrorist emergency	
	Division 1 Declaring, extending and ending terrorist emergencies	
	Subdivision 1 Appointments	
	8A Appointment of terrorist emergency commander and terrorist emergency forward commander . . . . .	10

---

	8B	Commissioner's or deputy commissioner's power to delegate . . . . .	11
	8C	Function of terrorist emergency commander . . . . .	11
	8D	Terrorist emergency commander's power to delegate . . . . .	11
	8E	Function of terrorist emergency forward commander. . . . .	12
	8F	Terrorist emergency forward commander's power to delegate . . . . .	12
	Subdivision 2 Declaration		
	8G	Terrorist emergency may be declared . . . . .	13
	8H	Extension of terrorist emergency beyond 7 days to a maximum of 14 days . . . . .	14
	8I	Relevant person must end terrorist emergency in particular circumstances . . . . .	15
	8J	Dealing with the terrorist emergency certificate at the end of the emergency. . . . .	15
	Division 2 Exercise of powers		
	Subdivision 1 Terrorist emergency officer powers		
	8K	Definition for sdiv 1 . . . . .	16
	8L	Grounds for exercise of power . . . . .	16
	8M	Power to control movement of persons . . . . .	16
	8N	Power to search a person without a warrant . . . . .	17
	8O	Power to require name and address . . . . .	18
	Subdivision 2 Other powers		
	8Q	Power to direct officers of government agencies . . . . .	18
	Division 3 Other provisions		
	8R	Report to Minister. . . . .	19
	8S	Tabling of report in Legislative Assembly . . . . .	20
	8T	Review . . . . .	20
13		Omission of s 10 (Relationship to other Acts) . . . . .	20
14		Amendment of s 16 (Meaning of CBRE coordinator) . . . . .	21
15		Insertion of new pt 3A. . . . .	21
	Part 3A Relationship between emergencies		
	43A	Emergency situation. . . . .	21
	43B	Terrorist emergency . . . . .	22
	43C	CBR emergency. . . . .	22
	43D	Multiple appointments . . . . .	22
16		Insertion of new ss 49 and 50 . . . . .	22

	49	Application of Police Powers and Responsibilities Act 2000 to a direction given by a police officer under this Act . . . . .	23
	50	Powers unaffected by failure to comply with formal provision . . . . .	23
17		Amendment of schedule (Dictionary) . . . . .	23
<b>Part 5</b>		<b>Amendment of Terrorism (Preventative Detention) Act 2005</b>	
18		Act amended in pt 5 and schedule . . . . .	24
19		Insertion of new s 7A . . . . .	24
	7A	Freedom of Information Act 1992 . . . . .	25
20		Amendment of s 13 (Presence or absence at application for order of detainee and other persons) . . . . .	25
21		Amendment of s 23 (Notice to and representations by the person) . . . . .	25
22		Amendment of s 27 (Application for extension of final order) . . . . .	26
23		Amendment of s 29 (Notice to and representations by the person) . . . . .	26
24		Insertion of new pt 2, div 3A . . . . .	26
	Division 3A	Legal Aid	
	31A	Order for free legal assistance . . . . .	26
	31B	Effect of order . . . . .	27
25		Amendment of s 35 (Revocation of preventative detention order or prohibited contact order) . . . . .	27
26		Amendment of s 38 (Nominated police officer to oversee functions and powers) . . . . .	28
27		Amendment of s 40 (Requirement to provide name etc.) . . . . .	28
28		Insertion of new ss 43A and 43B . . . . .	28
	43A	Search involving removal of clothing . . . . .	28
	43B	Safeguards apply . . . . .	28
29		Amendment of s 45 (Release of person from preventative detention) . . . . .	29
30		Amendment of s 46 (Arrangement for detainee to be held) . . . . .	29
31		Amendment of s 47 (Effect of initial order to be explained to person detained) . . . . .	29
32		Amendment of s 48 (Effect of final order to be explained to person detained) . . . . .	30
33		Amendment of s 51 (Copy of preventative detention order and summary of grounds) . . . . .	31
34		Amendment of s 53 (Questioning of person prohibited while person detained) . . . . .	32
35		Amendment of s 54 (Offences of contravening safeguards) . . . . .	33

---

36	Amendment of s 58 (Contacting lawyer) . . . . .	33
37	Amendment of s 59 (Monitoring contact under section 56, 58 or 61) . . . . .	34
38	Insertion of new s 59A . . . . .	34
	59A        Restrictions on monitoring contact with lawyer . . . . .	34
39	Amendment of s 61 (Child or person of impaired capacity to be contacted by relevant chief executive) . . . . .	35
40	Amendment of s 62 (The relevant chief executive and the chief executive's delegate) . . . . .	36
41	Amendment of s 64 (Lawyer) . . . . .	36
42	Amendment of s 65 (Parent/guardian) . . . . .	37
43	Amendment of s 72 (Review by Supreme Court initiated by police officer detaining a person) . . . . .	37
44	Insertion of new s 80A . . . . .	37
	80A        No cost orders against person detained. . . . .	37
45	Insertion of new pt 8. . . . .	38
	Part 8        Transitional provision	
	85        Application of s 7A . . . . .	38
46	Amendment of schedule (Dictionary) . . . . .	38
<b>Schedule</b>	<b>Minor amendments</b> . . . . .	39
	Police Powers and Responsibilities Act 2000. . . . .	39
	Public Safety Preservation Act 1986 . . . . .	39
	Terrorism (Preventative Detention) Act 2005 . . . . .	41



Queensland

# **Terrorism Legislation Amendment Act 2007**

## **Act No. 34 of 2007**

---

**An Act to amend the *Terrorism (Preventative Detention) Act 2005*, the *Public Safety Preservation Act 1986*, and for other purposes**

**[Assented to 29 August 2007]**

**The Parliament of Queensland enacts—**

## **Part 1                      Preliminary**

### **1            Short title**

This Act may be cited as the *Terrorism Legislation Amendment Act 2007*.

### **2            Commencement**

This Act commences on a day to be fixed by proclamation.

## **Part 2                      Amendment of Disaster Management Act 2003**

### **3            Act amended in pt 2**

This part amends the *Disaster Management Act 2003*.

### **4            Amendment of s 9 (Directions about powers under other Acts during disaster situation)**

Section 9(8), ‘or’—

*omit, insert—*

‘or to terrorist emergency powers or’.



## Part 3 **Amendment of Police Powers and Responsibilities Act 2000**

### 5 **Act amended in pt 3 and schedule**

This part and the schedule amend the *Police Powers and Responsibilities Act 2000*.

### 6 **Amendment of sch 6 (Dictionary)**

(1) Schedule 6—

*insert—*

‘*explosives detection dog* means a dog trained to detect explosives.’.

(2) Schedule 6, definition *enforcement act*, paragraph (a)—

*insert—*

‘(iii) by using an explosives detection dog to carry out explosives detection;’.

(3) Schedule 6, definition *enforcement act*, paragraph (b)—

*insert—*

‘(iii) by using an explosives detection dog to carry out explosives detection;’.

(4) Schedule 6, definition *enforcement act*, paragraph (c)—

*insert—*

‘(iii) by using an explosives detection dog to carry out explosives detection;’.

## Part 4 **Amendment of Public Safety Preservation Act 1986**

### 7 **Act amended in pt 4 and schedule**

This part and the schedule amend the *Public Safety Preservation Act 1986*.

### 8 **Amendment of long title**

The long title, before ‘chemical’—  
*insert*—  
‘terrorist,’.

### 9 **Replacement of s 4A (Notes)**

Section 4A—  
*omit, insert*—

### ‘4A **Relationship with another declaration under another Act**

- ‘(1) This Act does not prevent a person from declaring a state of disaster or another emergency under another Act.
- ‘(2) The existence of another declaration under another Act does not prevent the making of a declaration, or the exercise of powers, under this Act.

*Example of another Act under which a declaration may be made—  
Disaster Management Act 2003’.*

### 10 **Amendment of s 5 (Declaration of emergency situation)**

- (1) Section 5(1), ‘*incident coordinator*’—  
*omit, insert*—  
‘*emergency commander*’.
- (2) Section 5(4)—  
*omit.*

- (3) Section 5(5) and (6)—  
*renumber* as section 5(4) and (5).

**11 Replacement of s 7 (Power to delegate)**

Section 7—  
*omit, insert—*

**‘7 Power to delegate**

- ‘(1) This section only applies for any period for which the emergency commander is not acting as the emergency commander.
- ‘(2) The emergency commander may delegate the commander’s functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- ‘(3) The power to delegate does not include the power to delegate the function to issue a certificate or make a note on a certificate under section 5.
- ‘(4) For each delegation, the emergency commander must attach to the emergency situation certificate a copy of each written instrument mentioned in the *Acts Interpretation Act 1954*, section 27A(3) and a statement outlining any revocation of the delegation.
- ‘(5) Without limiting the *Acts Interpretation Act 1954*, section 27A, if a delegation is in force at the end of the declaration of the emergency situation, the delegation ends.
- ‘(6) In this section—  
*functions* includes powers.’.

**12 Insertion of new pt 2A**

After part 2—

*insert—*

**‘Part 2A Terrorist emergency****‘Division 1 Declaring, extending and ending terrorist emergencies****‘Subdivision 1 Appointments****‘8A Appointment of terrorist emergency commander and terrorist emergency forward commander**

- ‘(1) This section applies if the commissioner or a deputy commissioner is satisfied on reasonable grounds that—
- (a) an emergency situation has arisen or is likely to arise; and
  - (b) the emergency situation results from or may result from or may lead to 1 or more terrorist acts at 1 or more places (each a *terrorist emergency site*).
- ‘(2) The commissioner or deputy commissioner must appoint an appropriately qualified police officer to be the terrorist emergency commander.
- ‘(3) Until the commissioner or deputy commissioner appoints a terrorist emergency commander, the commissioner or deputy commissioner has all the powers of a terrorist emergency commander.
- ‘(4) Also, for each terrorist emergency site, an appropriately qualified police officer must be appointed as the terrorist emergency forward commander either by the commissioner or deputy commissioner or by the terrorist emergency commander under a delegation under section 8B.

**‘8B Commissioner’s or deputy commissioner’s power to delegate**

‘The commissioner or the deputy commissioner may delegate the power under section 8A(4) to appoint a terrorist emergency forward commander to the terrorist emergency commander appointed under the section.

**‘8C Function of terrorist emergency commander**

- ‘(1) The terrorist emergency commander is responsible for the overall management and control of all terrorist emergencies declared for the emergency situation for which the commander was appointed.
- ‘(2) The terrorist emergency commander may give directions to a terrorist emergency forward commander about the performance of functions and the exercise of powers under this Act by the terrorist emergency forward commander.
- ‘(3) The terrorist emergency forward commander must comply with the directions and is generally subject to the management and control of the terrorist emergency commander.
- ‘(4) The terrorist emergency commander has all the powers of a terrorist emergency forward commander and, for that purpose, a reference in this Act to a terrorist emergency forward commander includes a reference to the terrorist emergency commander.
- ‘(5) Subsections (2) and (4) do not limit other powers of the terrorist emergency commander.

**‘8D Terrorist emergency commander’s power to delegate**

- ‘(1) This section only applies for any period for which the terrorist emergency commander is not acting as the commander.
- ‘(2) The terrorist emergency commander may delegate the commander’s functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- ‘(3) In this section—  
*functions* includes powers.

**‘8E Function of terrorist emergency forward commander**

- ‘(1) The terrorist emergency forward commander appointed for a terrorist emergency site is the police forward commander for, and responsible for the management and control of—
- (a) the terrorist emergency site and on-site investigation; and
  - (b) if a terrorist emergency is declared under section 8G—the terrorist emergency.
- ‘(2) The terrorist emergency forward commander has, for the commander’s function in relation to a terrorist emergency, the powers that an emergency commander has for an emergency situation under part 2 and, for that purpose in section 8—
- (a) a reference to an emergency situation includes a reference to the terrorist emergency; and
  - (b) a reference to an emergency commander includes a reference to a terrorist emergency forward commander.
- ‘(3) For the purpose of the powers of a police officer acting on the commander’s instructions, a reference in section 8 to a police officer acting on the commander’s instructions includes a reference to a terrorist emergency officer.
- ‘(4) Subsections (2) and (3) do not limit other powers of the terrorist emergency forward commander or of a police officer acting on the commander’s instructions.
- ‘(5) However, powers conferred by this section are subject to section 8L.

**‘8F Terrorist emergency forward commander’s power to delegate**

- ‘(1) This section only applies for any period for which the terrorist emergency forward commander is not acting as commander.
- ‘(2) The commander may delegate the commander’s functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- ‘(3) The power to delegate does not include the power to delegate the function to issue a terrorist emergency certificate or make a note on a certificate under section 8G(4) or 8J(2).

- ‘(4) For each delegation, the terrorist forward commander must attach to the terrorist emergency certificate a copy of each written instrument mentioned in the *Acts Interpretation Act 1954*, section 27A(3) and a statement outlining any revocation of the delegation.
- ‘(5) Without limiting the *Acts Interpretation Act 1954*, section 27A, if a delegation is in force at the end of the terrorist emergency, the delegation ends.
- ‘(6) In this section—  
*functions* includes powers.

## ‘Subdivision 2 Declaration

### ‘8G Terrorist emergency may be declared

- ‘(1) If a terrorist emergency forward commander appointed for a terrorist emergency site is satisfied on reasonable grounds that the terrorist emergency powers are necessary to manage and control the site and circumstances relating to the site, the commander may declare that a terrorist emergency exists for a stated area (the *declared area*) that includes the site.
- ‘(2) The stated area must be the smallest area reasonably necessary to effectively deal with the terrorist emergency.
- ‘(3) Without limiting subsection (1), a declared area may be any description of area surrounding a moving activity.

*Example—*

an area within a stated distance of a particular moving motor vehicle

- ‘(4) As soon as practicable after making the declaration, the terrorist emergency forward commander, must issue a certificate (a *terrorist emergency certificate*) signed by the commander stating—
  - (a) that a terrorist emergency has been declared; and
  - (b) the nature of the terrorist emergency; and
  - (c) the time and date the terrorist emergency was declared; and
  - (d) the declared area.

- ‘(5) The terrorist emergency forward commander may at any time change the nature of the terrorist emergency or the declared area by amending their description on the certificate together with the time and date of the amendment.
- ‘(6) The commissioner must immediately inform the Minister of the declaration of the terrorist emergency or of a significant change made under subsection (5).
- ‘(7) If after reasonable efforts, the Minister can not be contacted, the commissioner must immediately inform the Premier of the declaration or change.
- ‘(8) If neither the Minister nor the Premier can be contacted, the commissioner must immediately inform the next most senior Minister who is available of the declaration or change.
- ‘(9) Unless either of the following happens, the declaration ends 7 days after the declaration is made—
  - (a) the terrorist emergency forward commander, the Minister or the Premier ends the declaration sooner;
  - (b) the Minister and the Premier extend the period of the declaration under section 8H.

**‘8H Extension of terrorist emergency beyond 7 days to a maximum of 14 days**

- ‘(1) This section applies if the Minister and the Premier are satisfied, in relation to a terrorist emergency that—
  - (a) the terrorist emergency continues to exist; and
  - (b) it is necessary for police officers to continue to exercise terrorist emergency powers beyond the first 7 days (the *initial period*) of the terrorist emergency to protect life or health at serious risk.
- ‘(2) Before the initial period ends, the Minister and the Premier may extend the period of the terrorist emergency to a total of not more than 14 days from the start of the initial period.



**‘8I Relevant person must end terrorist emergency in particular circumstances**

- ‘(1) As soon as a relevant person is satisfied it is no longer necessary for police officers to continue to exercise terrorist emergency powers to protect life or health at serious risk, the relevant person must end the terrorist emergency.
- ‘(2) If a relevant person ends a terrorist emergency, the terrorist emergency forward commander must as soon as practicable—
- (a) inform police officers of the ending; and
  - (b) notify the time and date of the ending by gazette notice; and
  - (c) comply with section 8J.
- ‘(3) In this section—
- relevant person* means the terrorist emergency commander, the Minister or the Premier.

**‘8J Dealing with the terrorist emergency certificate at the end of the emergency**

- ‘(1) This section applies when a terrorist emergency ends.
- ‘(2) The terrorist emergency forward commander must—
- (a) note the time and date of the ending on the terrorist emergency certificate; and
  - (b) give the certificate to the office of the commissioner within 14 days after the ending of the terrorist emergency.
- ‘(3) The terrorist emergency certificate must be kept in the office of the commissioner for a period of at least 6 years after the ending of the terrorist emergency.

**‘Division 2            Exercise of powers****‘Subdivision 1        Terrorist emergency officer powers****‘8K        Definition for sdiv 1**

‘In this division—

*terrorist emergency officer* means—

- (a) the terrorist emergency forward commander; or
- (b) a police officer acting on the instructions of the terrorist emergency forward commander.

**‘8L        Grounds for exercise of power**

‘(1) A terrorist emergency officer may exercise a terrorist emergency power—

- (a) only during the period of the terrorist emergency and, unless otherwise provided, only in the declared area; and
- (b) only if the terrorist emergency officer is satisfied that the exercise of power is necessary to effectively deal with the terrorist emergency.

‘(2) A terrorist emergency officer exercising a power may use force that is reasonably necessary.

*Note—*

A terrorist emergency officer also has powers under section 8E.

**‘8M        Power to control movement of persons**

‘(1) This section applies to a person who is in a declared area or who a terrorist emergency officer reasonably suspects is about to enter the declared area.

‘(2) A terrorist emergency officer may direct the person—

- (a) not to enter the declared area; or
- (b) to go to a stated place in the declared area; or

- (c) to temporarily stay at or in a stated place in the declared area; or
  - (d) not to enter a stated place in the declared area.
- ‘(3) A direction may only be given to ensure the safety of any person, whether the safety of the person given the direction or another person.
- ‘(4) A person given one or more directions under subsection (2)(a), (b), (c) or (d) is not, for that reason only, under arrest or in the custody of a police officer for the purposes of the *Police Powers and Responsibilities Act 2000*.
- ‘(5) A direction under subsection (2)(a), (b), (c) or (d) is not an enforcement act for the purposes of the *Police Powers and Responsibilities Act 2000*.

**‘8N Power to search a person without a warrant**

- ‘(1) A terrorist emergency officer may stop, detain and search a person for anything relevant to the terrorist emergency if the person is about to enter, is in or if the terrorist emergency officer reasonably suspects the person has just left, a declared area for the terrorist emergency.
- ‘(2) The terrorist emergency officer may seize all or part of a thing—
- (a) that may provide evidence of the commission of an offence; or
  - (b) that the person intends to use to cause harm to himself, herself or someone else.
- ‘(3) The *Police Powers and Responsibilities Act 2000*, chapter 20, applies as if anything done under subsection (1) or (2) were done under that Act.
- ‘(4) Nothing done under this section, other than the search mentioned in subsection (5), is an enforcement act under the *Police Powers and Responsibilities Act 2000*.
- ‘(5) A search of a person involving the removal of the person’s clothing, other than outer clothing, is an enforcement act under the *Police Powers and Responsibilities Act 2000*.

**‘80 Power to require name and address**

- ‘(1) A terrorist emergency officer may require a person to state the person’s correct name and address if the person is about to enter, is in or if the terrorist emergency officer reasonably suspects the person has just left, a declared area for the terrorist emergency.
- ‘(2) Also, the police officer may require the person to give evidence of the correctness of the stated name and address if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated name or address or to otherwise be able to give the evidence.
- ‘(3) In this section—  
*address* means current place of residence.

**‘Subdivision 2 Other powers****‘8Q Power to direct officers of government agencies**

- ‘(1) To the extent necessary to manage and control the response of government agencies to a terrorist emergency, the commissioner or a deputy commissioner may direct an officer of a government agency to do or not do an act, or to perform or not perform a function.
- ‘(2) The act or function must be an act or function it is lawful for the officer to do or perform or not do or perform in the ordinary performance of the officer’s functions.
- ‘(3) The direction may be given only while the declaration is in effect and only in relation to any or all declared areas stated in the direction.
- ‘(4) The direction may apply to more than 1 terrorist emergency.
- ‘(5) The agency must be consulted before being given the direction.
- ‘(6) The officer is authorised to comply, and must comply, with the direction.

- ‘(7) The direction may be withdrawn by the Premier or the Minister responsible for the agency.
- ‘(8) A direction under subsection (1) may be given generally to officers holding a type of office or exercising a function.
- ‘(9) In this section—
- function* includes a power.
- officer* includes any employee of the government whether or not the person holds an office.
- performance*, of a function, includes the exercise of a power.

### ‘Division 3                    Other provisions

#### ‘8R    Report to Minister

- ‘(1) The commissioner must give the Minister a report about a terrorist emergency within 6 months after the end of the declaration.
- ‘(2) The report—
- (a) must include—
- (i) the nature of the terrorist emergency, when and why the emergency was declared, and when it ended; and
- (ii) if the terrorist emergency declaration was extended, why it was extended; and
- (iii) the terrorist emergency powers relied on and why they were relied on; and
- (iv) if any terrorist emergency powers were delegated under section 8F, the reason the powers were delegated; and
- (v) who authorised the exercise of the terrorist emergency powers and how the powers were exercised; and
- (b) may include anything else the commissioner considers appropriate.

**‘8S Tabling of report in Legislative Assembly**

- ‘(1) The Minister must table in the Legislative Assembly a report about a terrorist emergency within 6 months after the end of the declaration.
- ‘(2) The report must include all the information described in section 8R(2)(a) and may include anything else the Minister considers appropriate.
- ‘(3) Subsection (2) does not require the report to include information that could reasonably be expected—
  - (a) to prejudice the investigation of a contravention or possible contravention of the law; or
  - (b) to enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
  - (c) to endanger a person’s life or physical safety; or
  - (d) to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or
  - (e) to prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
  - (f) to prejudice national security.

**‘8T Review**

- ‘(1) This part must be reviewed by the Minister before the end of 5 years after the commencement of this section.
- ‘(2) A report on the outcome of the review must be tabled in the Legislative Assembly within 12 months after the end of the period of 5 years.’.

**13 Omission of s 10 (Relationship to other Acts)**

Section 10—

*omit.*

**14 Amendment of s 16 (Meaning of *CBRE coordinator*)**

Section 16, '*CBRE coordinator*'—

*omit, insert—*

*'CBRE commander'*.

**15 Insertion of new pt 3A**

After section 43—

*insert—*

**'Part 3A Relationship between emergencies****'43A Emergency situation**

- '(1) An emergency situation may be declared to exist even though a terrorist emergency or CBR emergency has been declared to exist for all or part of the same situation.
- '(2) However, the emergency situation has no effect for the area for which the terrorist emergency has been declared to exist or to the extent to which the CBR emergency has been declared to exist.
- '(3) If a terrorist emergency is declared to exist for all or part of an area for which an emergency situation has been declared to exist, the emergency situation is of no effect for the area or part.
- '(4) If a CBR emergency is declared to exist for all or part of a situation for which an emergency situation has been declared to exist, the emergency situation is of no effect to the extent the CBR emergency has been declared to exist.
- '(5) An emergency situation is affected under subsection (2), (3) or (4) by the existence of a terrorist or CBR emergency only while the terrorist or CBR emergency is in force.

**‘43B Terrorist emergency**

- ‘(1) A terrorist emergency may be declared to exist even though an emergency situation or a CBR emergency has been declared to exist for all or part of the same situation.
- ‘(2) The declared area may be all, partly or not included in a declaration under part 2.
- ‘(3) Subject to section 43A, the terrorist emergency and the emergency situation, or CBR emergency, operate in conjunction with each other.

**‘43C CBR emergency**

- ‘(1) A CBR emergency may be declared to exist even though an emergency situation or terrorist emergency has been declared to exist for all or part of the same situation.
- ‘(2) Subject to section 43A, the CBR emergency and the emergency situation, or terrorist emergency, operate in conjunction with each other.

**‘43D Multiple appointments**

- ‘(1) Nothing in this Act prevents a person holding or being appointed to more than position as commander under this Act.
- ‘(2) In this section—  
*commander* means any of the following—
  - (a) emergency commander;
  - (b) terrorist emergency commander;
  - (c) terrorist emergency forward commander;
  - (d) CBRE commander.’.

**16 Insertion of new ss 49 and 50**

After section 48—

*insert—*



**‘49 Application of Police Powers and Responsibilities Act 2000 to a direction given by a police officer under this Act**

‘The *Police Powers and Responsibilities Act 2000* applies as if a direction given by a police officer under this Act were a direction given under that Act.

**‘50 Powers unaffected by failure to comply with formal provision**

‘A failure to comply with any of the following provisions in relation to an emergency has no effect on the exercise of powers in relation to the emergency—

- (a) for an emergency situation—section 5(2);
- (b) for a terrorist emergency—sections 8G(4) and (6) to (8) and 8J;
- (c) for a CBR emergency—section 12(5).’.

**17 Amendment of schedule (Dictionary)**

- (1) Schedule, definitions *CBRE coordinator* and *incident coordinator*—

*omit.*

- (2) Schedule—

*insert—*

**‘*appropriately qualified***, for an appointment, or a delegation of a function, includes having the qualifications, experience or standing appropriate for the appointment or appropriate to perform the function delegated, or, if the function is a power, to exercise the power delegated.

*Example of standing in relation to a police officer—*

the rank of the police officer

***CBRE commander*** see section 16.

***declared area*** see section 8G(1).

**deputy commissioner** means an executive officer within the Queensland Police Service holding rank as deputy commissioner.

**reasonably suspects** means suspects on grounds that are reasonable in the circumstances.

**search** see the *Police Powers and Responsibilities Act 2000*, schedule 6.

**terrorist act** see the *Police Powers and Responsibilities Act 2000*, section 211.

**terrorist emergency** means a terrorist emergency declared under section 8G(1).

**terrorist emergency certificate** see section 8G(4).

**terrorist emergency officer** see section 8K.

**terrorist emergency powers** means the powers conferred under part 2A for a terrorist emergency on the terrorist emergency forward commander or a police officer acting under the forward commander's instructions.

**terrorist emergency site** see section 8A(1)(b).'

## Part 5 **Amendment of Terrorism (Preventative Detention) Act 2005**

### 18 **Act amended in pt 5 and schedule**

This part and the schedule amend the *Terrorism (Preventative Detention) Act 2005*.

### 19 **Insertion of new s 7A**

Part 1—

*insert*—

**'7A Freedom of Information Act 1992**

'The *Freedom of Information Act 1992* does not apply to documents, within the meaning of that Act, received or brought into existence in carrying out activities under this Act.'

**20 Amendment of s 13 (Presence or absence at application for order of detainee and other persons)**

(1) Section 13(3)—

*insert—*

'(d) the PIM, if section 14 applies.'

(2) Section 13(4), after 'limit'—

*insert—*

'or extend'.

**21 Amendment of s 23 (Notice to and representations by the person)**

(1) Section 23(1)(a), 'of the grounds'—

*omit.*

(2) Section 23—

*insert—*

'(3A) For the hearing, the written summary given to the person must also be given to the issuing authority.

'(3B) If the issuing authority is not reasonably satisfied that the written summary fairly and accurately informs the person of the nature and cause of the application, the issuing authority must direct the applicant to provide the person with more information about the application.

'(3C) The applicant is not required to provide under subsection (3B) information that could, if disclosed, reasonably be expected—

(a) to prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or

(b) to prejudice national security.'

**22 Amendment of s 27 (Application for extension of final order)**

(1) Section 27, ‘an issuing’—

*omit, insert—*

‘the issuing’.

(2) Section 27—

*insert—*

‘(2) If practicable, the application must be made to the issuing authority who made the final order.’.

**23 Amendment of s 29 (Notice to and representations by the person)**

Section 29(1)(a), ‘of the grounds’—

*omit.*

**24 Insertion of new pt 2, div 3A**

Part 2—

*insert—*

**‘Division 3A            Legal Aid****‘31A Order for free legal assistance**

‘(1) This section applies if—

(a) a person in detention under an initial order does not have legal representation; and

(b) an application is made to the issuing authority for a final order.

‘(2) The issuing authority must require the person to advise the issuing authority within a stated period the issuing authority considers reasonable (the *period*) that the person has or has not arranged for legal representation or does not want legal representation.

‘(3) The issuing authority must make the order in subsection (4) unless the person advises the issuing authority within the

period that the person has arranged for legal representation or does not want legal representation.

‘(4) The order is that the person be given free legal assistance for the period of the person’s detention for any detention proceeding.

‘(5) In this section—

***detention proceeding*** means—

- (a) the application for the final order or another application under this Act for a preventative detention order; or
- (b) an application to the Supreme Court under section 71 or 72 or under the *Judicial Review Act 1991* in relation to an application for, or the making of, a preventative detention order.

***legal representation*** means representation by a lawyer.

### ‘31B Effect of order

‘(1) Legal Aid must give the person free legal assistance as required by the order as if it had granted an application under the *Legal Aid Queensland Act 1997* for free legal assistance.

‘(2) A lawyer provided by the free legal assistance is the person’s legal representative only in relation to the person’s detention and only while the person is in detention under this Act.’

## 25 Amendment of s 35 (Revocation of preventative detention order or prohibited contact order)

(1) Section 35(1), after ‘must apply’—

*insert—*

‘, as soon as practicable.’

(2) Section 35(3), after ‘must apply’—

*insert—*

‘, as soon as practicable.’

**26 Amendment of s 38 (Nominated police officer to oversee functions and powers)**

Section 38(4)—

*insert—*

‘(g) having the preventative detention order revoked.’.

**27 Amendment of s 40 (Requirement to provide name etc.)**

Section 40(4)(c) and (d)—

*omit, insert—*

‘(c) his or her rank.’.

**28 Insertion of new ss 43A and 43B**

Part 3—

*insert—*

**‘43A Search involving removal of clothing**

‘(1) Subsection (2) applies if a police officer who takes a person into custody under a preventative detention order, or who is present when a person is taken into custody, reasonably suspects the person is carrying an item that may result in loss of life or serious physical harm.

‘(2) The police officer may require the person to remove all items of clothing or all items of clothing from the upper or lower part of the body.

**‘43B Safeguards apply**

‘The following provisions of the *Police Powers and Responsibilities Act 2000* apply to a search under section 42, 43 or 43A—

- section 624 (General provision about searches of persons)
- section 625 (Taking a person to another place to search)
- section 626 (Limitation on period of detention for search)

- section 628 (Dealing with persons who obstruct search of person or vehicle)
- section 630 (Protecting the dignity of persons during search)
- section 631 (Special requirements for searching children and persons with impaired capacity)
- section 632 (If video cameras monitor place where person is searched).’.

**29 Amendment of s 45 (Release of person from preventative detention)**

Section 45(1), note—

*omit, insert—*

‘*Note—*

A person may be released, for example, so that the person on being arrested for an offence may be charged and otherwise dealt with for the offence.’.

**30 Amendment of s 46 (Arrangement for detainee to be held)**

Section 46—

*insert—*

‘(16) In this section—

*preventative detention order*, in subsections (6) and (7), includes a copy of a preventative detention order certified as a true copy by the issuing authority that issued the order.’.

**31 Amendment of s 47 (Effect of initial order to be explained to person detained)**

(1) Section 47(2)—

*insert—*

‘(da) unless it is clear the person is not under 16 years of age, the fact that a preventative detention order can not be made for a person under 16 years of age; and’.

- (2) Section 47(2)—  
*insert—*  
‘(ga) the person’s entitlement under section 56 to contact persons mentioned in the section; and’.
- (3) Section 47(2)(h), ‘and work telephone number’—  
*omit, insert—*  
‘, rank and station’.
- (4) Section 47—  
*insert—*
- ‘(5) For subsection (2)(h), the police officer must assist the person to contact the nominated police officer if the person requests assistance.’.

**32 Amendment of s 48 (Effect of final order to be explained to person detained)**

- (1) Section 48(2)—  
*insert—*  
‘(ga) the person’s entitlement under section 56 to contact persons mentioned in the section; and’.
- (2) Section 48(2)(h), ‘and work telephone number’—  
*omit, insert—*  
‘, rank and station’.
- (3) Section 48—  
*insert—*
- ‘(5) For subsection (2)(h), the police officer must assist the person to contact the nominated police officer if the person requests assistance.’.



**33 Amendment of s 51 (Copy of preventative detention order and summary of grounds)**

(1) Section 51(1)(b)—

*omit, insert—*

‘(b) a summary of the grounds of the application on which the order was made (the *summary*); and

(c) a copy of the reasons for the decision of the issuing authority in making the order that were given to the applicant.’.

(2) Section 51—

*insert—*

‘(1A) If the initial order is extended or further extended, the police officer detaining the person under the order must, as soon as practicable, give the person—

(a) a copy of the order for the extension or further extension; and

(b) a summary of the grounds of the application on which the extension or further extension was made (the *summary*).’.

((3) Section 51(2)—

*omit.*

(4) Section 51(4)(d)—

*omit, insert—*

‘(d) a summary of the grounds of the application on which the order was made (also the *summary*); and

(e) a copy of the reasons for the decision of the issuing authority in making the order that were given to the applicant.’.

(5) Section 51—

*insert—*

‘(4A) If the final order is extended or further extended, the police officer who is detaining the person under the order must, as soon as practicable, give the person—

- (a) a copy of the order for the extension or further extension; and
  - (b) a summary of the grounds of the application on which the extension or further extension was made (the *summary*); and
  - (c) a copy of the reasons for the decision of the issuing authority in making the extension or further extension that were given to the applicant.’.
- ‘(4B) Subsections (1), (1A), (4) and (4A) do not require any information to be disclosed—
- (a) if the disclosure of the information is likely to prejudice national security; or
  - (b) if the information would not have to be disclosed in a proceeding because of the *Police Powers and Responsibilities Act 2000*, section 803.’.

**34 Amendment of s 53 (Questioning of person prohibited while person detained)**

- (1) Section 53, heading—  
*omit, insert—*

**‘53 Restrictions on questioning detained person’.**

- (2) Section 53—  
*insert—*
- ‘(3) If a police officer questions a person while the person is being detained under a preventative detention order, the police officer who is detaining the person must ensure that the questioning is electronically recorded.
- ‘(4) Subsection (3) does not apply if—
- (a) the questioning is for the purposes of—
    - (i) finding out whether the person is the person stated in the preventative detention order; or
    - (ii) ensuring the safety and well being of the person being detained; and

- (b) complying with subsection (3) is not practicable because of the seriousness and urgency of the circumstances in which the person is questioned.
- ‘(5) A recording under subsection (3) must be kept until the end of the following, whichever is the later—
- (a) a period of 12 months after the recording is made;
  - (b) if court proceedings relating to the order are conducted at any time during the 12 month period—the court proceedings;
  - (c) if a police investigation relating to the order is conducted at any time during the 12 month period—the investigation and any court proceedings relating to the investigation.’.

**35 Amendment of s 54 (Offences of contravening safeguards)**

Section 54(e), words inside brackets—

*omit, insert—*

‘Restrictions on questioning detained person’.

**36 Amendment of s 58 (Contacting lawyer)**

- (1) Section 58(1), from ‘but solely for the purpose of—’—

*omit, insert—*

‘on any matter.’.

- (2) Section 58—

*insert—*

- ‘(1A) If a police officer detaining a person under a preventative detention order has reasonable grounds to believe that the person—
- (a) is unable, because of inadequate knowledge of the English language, or a disability, to communicate with reasonable fluency in the language; and
  - (b) therefore may have difficulties in choosing or contacting a lawyer;

the police officer must give reasonable assistance to the person to choose and contact a lawyer under subsection (1), including by arranging for the assistance of an interpreter.’.

**37 Amendment of s 59 (Monitoring contact under section 56, 58 or 61)**

- (1) Section 59, heading, ‘section 56’—

*omit, insert—*

‘s 56’.

- (2) Section 59(5), ‘for a purpose’—

*omit.*

- (3) Section 59(1), after ‘58’—

*insert—*

‘(subject to section 59A)’.

- (4) Section 59—

*insert—*

- ‘(6) In this section—

*listening device* see the *Police Powers and Responsibilities Act 2000*, schedule 6.

*monitored* means monitored directly by a person who is present and not by way of a listening device.’.

**38 Insertion of new s 59A**

After section 59—

*insert—*

**‘59A Restrictions on monitoring contact with lawyer**

- ‘(1) Section 59(1) to (3) does not apply to the contact that the person being detained has under section 58 with a security-cleared lawyer.

- ‘(2) However, if a person is detained under a final order, the issuing authority may make an order on application by a police officer that section 59(1) to (3) applies to contact with the person.

- ‘(3) An application under subsection (2) may be made when the final order is made or at any time after the final order is made.
- ‘(4) If practicable, the application must be made to the issuing authority that makes the final order.
- ‘(5) The application may only be made on notice to the lawyer.
- ‘(6) At the hearing of the application, the lawyer is entitled to question a person giving information to the issuing authority and to make representations.
- ‘(7) Subsection (6) does not require any information to be disclosed—
  - (a) if the disclosure of the information is likely to prejudice national security; or
  - (b) if the information would not have to be disclosed in a proceeding because of the *Police Powers and Responsibilities Act 2000*, section 803 (Protection of methodologies).’.
- ‘(8) The issuing authority may make the order only if it is satisfied on reasonable grounds that making the monitoring order will assist in achieving the purpose for which the preventative detention order was made.’.

**39 Amendment of s 61 (Child or person of impaired capacity to be contacted by relevant chief executive)**

- (1) Section 61, heading, ‘Child or person of impaired capacity’—  
*omit, insert—*  
**‘Particular persons’.**
- (2) Section 61(1)—  
*omit, insert—*
- ‘(1) This section also applies if the police officer detaining a person under a preventative detention order believes or suspects the person—
  - (a) is a child; or
  - (b) is of impaired capacity; or
  - (c) has a mental illness.’.

**40 Amendment of s 62 (The relevant chief executive and the chief executive's delegate)**

Section 62(1) and (2)—

*omit, insert—*

- ‘(1) For section 61, for a person being detained under a preventative detention order, the *relevant chief executive* is the following chief executive—
- (a) for a person who is or is suspected to be a child—the chief executive within the meaning of the *Juvenile Justice Act 1992*;
  - (b) for a person who is or is suspected to be a person of impaired capacity—the chief executive within the meaning of the *Disability Services Act 2006*;
  - (c) for a person who has or is suspected to have, a mental illness—the chief executive of the department within which the *Mental Health Act 2000* is administered.
- ‘(2) The relevant chief executive’s power to delegate a function under the following provisions includes the power to delegate the functions of the chief executive under section 61—
- the *Disability Services Act 2006*, section 228
  - the *Juvenile Justice Act 1992*, section 312
  - the *Public Service Act 1996*, section 57.

**41 Amendment of s 64 (Lawyer)**

- (1) Section 64(d)(iv) ‘; and’—

*omit, insert—*

‘; or’.

- (2) Section 64(d)—

*insert—*

‘(v) an application for legal assistance; and’.

**42 Amendment of s 65 (Parent/guardian)**

Section 65(1)(c), before ‘60’—

*insert—*

‘58 or’.

**43 Amendment of s 72 (Review by Supreme Court initiated by police officer detaining a person)**

(1) Section 72(1), ‘within 7 days’—

*omit, insert—*

‘, at the end of the period mentioned in subsection (4)’.

(2) Section 72—

*insert—*

‘(4) For subsection (1), the period is the later of the following—

(a) 7 days after the person is detained under the preventative detention order;

(b) if the preventative detention order under which the person is detained has been extended or further extended—7 days after the order is extended or further extended.’.

**44 Insertion of new s 80A**

Part 7—

*insert—*

**‘80A No cost orders against person detained**

‘(1) This section applies to a person who is or has been detained under a preventative detention order and who makes an application under this Act.

‘(2) A cost order can not be made against the person for the application.’.

**45 Insertion of new pt 8**

After section 84—

*insert—*

**‘Part 8 Transitional provision****‘85 Application of s 7A**

‘Section 7A applies to any activity or record even if the activity happened or the record was brought into existence before the commencement of the section.’.

**46 Amendment of schedule (Dictionary)**

(1) Schedule—

*insert—*

*‘Legal Aid* see the *Legal Aid Queensland Act 1997*, schedule.

*legal assistance* see the *Legal Aid Queensland Act 1997*, schedule.’.

(2) Schedule, definition *ASIO warrant*, ‘34D’—

*omit, insert—*

‘34E’.

(3) Schedule, definition *issuing authority*—

*insert—*

*‘Note—*

The phrase ‘the issuing authority’ is uniformly used for all purposes, as opposed to varying references to ‘the issuing authority’ or ‘an issuing authority.’.

(4) Schedule, definition *senior police officer*, paragraph (a), after ‘38’—

*insert—*

‘, 45’.



## Schedule                      Minor amendments

sections 5, 7 and 18

### Police Powers and Responsibilities Act 2000

- 1            **Section 211, heading, ‘for ch 9’—**  
*omit.*
  
- 2            **Section 742(4)(b), ‘an issuing authority’—**  
*omit, insert—*  
‘the issuing authority’.
  
- 3            **Schedule 6, definitions *terrorism* and *terrorist act*, ‘, for chapter 9,’—**  
*omit.*

### Public Safety Preservation Act 1986

- 1            **Sections 5(2), (3) and (5), 6(2), 8, 12(1), 18, 46(1), 47(2) and 48, ‘incident coordinator’—**  
*omit, insert—*  
‘emergency commander’.
  
- 2            **Section 8(1), ‘incident coordinator’s’—**  
*omit, insert—*  
‘emergency commander’s’.

## Schedule (continued)

- 3 Section 6(1)—**  
*omit.*
- 4 Sections 11(2) and (3), 12(2) to (5), 15(2), (3) and (5), 16(b), 17(1) and (2), 18, 19(1), (5) and (8), 20(2), 21(2), 22(2), 23(2), 24(2), 27(3)(b), 32(1) and (2), 33, 34(1), 35(3), 38(1), 46(1), 47(2) and 48, ‘CBRE coordinator—**  
*omit, insert—*  
‘CBRE commander’.
- 5 Sections 11(3) and 32(1), ‘the coordinator’—**  
*omit, insert—*  
‘the commander’.
- 6 Part 3, division 3, heading, ‘CBRE coordinator’s’—**  
*omit, insert—*  
‘CBRE commander’s’.
- 7 Part 3, division 3, subdivision 1, heading, ‘CBRE coordinator’—**  
*omit, insert—*  
‘CBRE commander’.
- 8 Section 38, heading, ‘coordinator’s’—**  
*omit, insert—*  
‘commander’s’.
- 9 Schedule, definition *CBRE emergency powers*, ‘CBRE coordinator’—**  
*omit, insert—*  
‘CBRE commander’.

## Schedule (continued)

**10 Schedule—***insert—**‘emergency commander* see section 5(1).’.**Terrorism (Preventative Detention) Act 2005****1 Section 14, before ‘issuing’, ‘an’—***omit, insert—**‘the’.***2 Section 15(1), ‘initial preventative detention order’—***omit, insert—**‘preventative detention order under section 17’.***3 Section 15(3)(b), ‘may’—***omit, insert—**‘should’.***4 Section 22(1), after ‘preventative detention order’—***insert—**‘under section 25’.***5 Section 25(1), before ‘police’, ‘a’—***omit, insert—**‘the’.*

## Schedule (continued)

- 6 Section 25(4), before ‘detained’ second occurring—**  
*insert—*  
‘further’.
- 7 Section 27, ‘final’, last occurring—**  
*omit.*
- 8 Section 46(10), ‘in’—**  
*omit, insert—*  
‘at’.
- 9 Section 47(2)(e), ‘any’—**  
*omit, insert—*  
‘the’.
- 10 Section 48(2)(d), ‘any’—**  
*omit, insert—*  
‘the’.
- 11 Section 51(4)(a), before ‘person’—**  
*insert—*  
‘a’.
- 12 Sections 54, 64, 65(1), 66, 67, 68, penalty, ‘Imprisonment for 2 years’—**  
*omit, insert—*  
‘2 years imprisonment’.

## Schedule (continued)

- 13 Section 60(11)(b), ‘if it is reasonably practicable to do so’—**  
*omit, insert—*  
‘if services are to be provided under paragraph (a)’.
- 14 Section 69(6), notes, after ‘under’—**  
*insert—*  
‘section’.
- 15 Section 77(1), before ‘issuing’, ‘an’—**  
*omit, insert—*  
‘the’.