



New South Wales

Law Enforcement and Other Legislation Amendment Bill 2007

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) following a statutory review of Part 6A of the *Law Enforcement (Powers and Responsibilities) Act 2002*, to lift the sunset provision on the exercise of special police powers in relation to large-scale public disorders (and related increased penalties for assault during such disorders and presumptions against bail for offences committed during such disorders) and to amend those powers,
- (b) to amend that Act to confer on police officers power to “move-on” groups of seriously intoxicated persons in public places who are likely to cause injury to persons or damage to property or otherwise risk public safety,
- (c) to amend the *Crimes (Serious Sex Offenders) Act 2006* and the *Bail Act 1978* in relation to serious sex offenders, in particular to extend continuing detention orders to such offenders who breach extended supervision orders or interim supervision orders,

- (d) to make a number of changes relating to the exercise of terrorism-related police powers following a statutory review of the *Terrorism (Police Powers) Act 2002*.

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 a day or days to be proclaimed (the amendments lifting the sunset provisions relating to public disorders are to commence on the day before the sunset provisions were to take effect).

Clause 3 is a formal provision that gives effect to the amendments to the Acts and Regulation set out in Schedules 1–4.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments relating to large-scale public disorders

Schedule 1.1 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 1.1 [1] limits the nature and extent of authorisations of special powers during large-scale public disorders to a level that is appropriate to the public disorder concerned.

Schedule 1.1 [2] extends the current power to seize and detain vehicles, mobile phones and other communication devices to things of any kind.

Schedule 1.1 [3] enables a police officer to stop a vehicle (and exercise powers in relation to the vehicle and its occupants) on a road or road-related area that is not in the target area of a formal authorisation given for a large-scale public disorder if the police officer suspects on reasonable grounds that the occupants of the vehicle have participated or intend to participate in the public disorder and is satisfied that the exercise of those powers is reasonably necessary to prevent or control the public disorder.

Schedule 1.1 [4] simplifies the existing emergency power of a police officer to stop a vehicle (and exercise powers in relation to the vehicle and its occupants) on a road or road-related area without a formal authorisation having been given for the large-scale public disorder, so that the power may be exercised if the police officer suspects on reasonable grounds that such a disorder is occurring or threatened in the near future and that the occupants of the vehicle have participated or intend to participate in the disorder. The amendment imposes an additional requirement that the approval of a police officer of or above the rank of Inspector is required before

any such power is exercised by a police officer, and limits the exercise of the power to a maximum of 3 hours after the approval is given.

Schedule 1.1 [5] provides, in connection with the existing provision for the monitoring of police powers relating to public disorders, for reports to the Ombudsman by the Commissioner of Police within 3 months after the powers are exercised (rather than at the time of their exercise), and for the Ombudsman's annual report to Parliament to include a report on the Ombudsman's scrutiny of the exercise of those powers.

Schedule 1.1 [6] lifts the expiry of Part 6A relating to public disorder police powers (the powers were due to sunset on 15 December 2007).

Schedule 1.2 Crimes Act 1900 No 40

Section 59A of the *Crimes Act 1900* provides a maximum penalty for assault during a large-scale public disorder of 5 years instead of the general penalty of 2 years (if no actual bodily harm was caused) and of 7 years instead of a general penalty of 5 years (if actual bodily harm was caused). The amendment lifts the expiry of that section (the section was due to sunset on 15 December 2007).

Schedule 1.3 Bail Act 1978 No 161

Section 8D of the *Bail Act 1978* provides for a presumption against bail in the case of the offence of riot and any other offence punishable by imprisonment for 2 years or more that is committed in the course of a large-scale public disorder (or the exercise of police powers during the disorder). The amendment lifts the expiry of that section (the section was due to sunset on 15 December 2007).

Schedule 2 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 relating to dispersal of intoxicated persons

Schedule 2 [2] enacts a new section 198 to confer on police officers the power to give directions to a person, in a group of 3 or more seriously intoxicated persons in a public place, for any such person to leave the place and not return (for a period that does not exceed 6 hours). The power is exercisable if the police officer believes on reasonable grounds that the person's behaviour is likely to cause injury to other persons, damage to property or otherwise gives rise to a risk to public safety.

Schedule 2 [1] transfers from existing section 198 a provision that concerns the related power in section 197 for the dispersal of persons in public places who are causing an obstruction, harassment or intimidation or fear or who are suspected of being involved in drug trafficking.

Schedule 2 [3] extends the existing provisions relating to the giving of directions to groups of people to the proposed power relating to the dispersal of intoxicated persons.

Schedule 2 [4]–[6] make consequential and other minor amendments.

Schedule 2 [7] authorises the making of savings and transitional regulations.

Schedule 3 Amendments relating to serious sex offenders

Schedule 3.1 Crimes (Serious Sex Offenders) Act 2006 No 7

The Schedule amends the Act:

- (a) to clarify the objects of the Act, and
- (b) to provide for proceedings for extended supervision orders and continuing detention orders for serious sex offenders to be taken by the State of New South Wales rather than the Attorney General, and
- (c) to enable the Supreme Court to make a continuing detention order against a sex offender who breaches an extended supervision order or interim supervision order.

Schedule 3.1 [1] substitutes section 3 to make it clear that the primary object of the Act is to provide for the extended supervision and continuing detention of serious sex offenders so as to ensure the safety and protection of the community, and to change the other object of the Act to encouraging such offenders to undertake rehabilitation.

Schedule 3.1 [2] amends section 6 to provide that the State of New South Wales, rather than the Attorney General, is to make applications for extended supervision orders against sex offenders. **Schedule 3.1 [3] and [4]** make consequential amendments.

Schedule 3.1 [5] amends section 11 to enable a condition that a person reside at an address approved by the Commissioner of Corrective Services to be imposed on an extended supervision order or interim supervision order.

Schedule 3.1 [6] amends section 13 to provide that the State of New South Wales, rather than the Attorney General, is to make applications for the variation or revocation of extended supervision orders or interim supervision orders against sex offenders.

Schedule 3.1 [7] amends section 14 to provide that the State of New South Wales, rather than the Attorney General, is to make applications for continuing detention orders against sex offenders. **Schedule 3.1 [8] and [11]** make consequential amendments.

Schedule 3.1 [9] inserts proposed section 14A to enable the State of New South Wales to apply to the Supreme Court for a continuing detention order against a person who has been found guilty of the offence of failing to comply with the requirements of an extended supervision order or interim supervision order. **Schedule 3.1 [10], [12]–[14] and [17]** make consequential amendments.

Schedule 3.1 [15] amends section 17 to require the Supreme Court to consider the nature of the failure to comply with an extended supervision order or interim

supervision order and the likelihood of further failures to comply before making an order on an application under proposed section 14A.

Schedule 3.1 [16] inserts proposed section 17A to revoke a parole order if the person subject to the order is made the subject of a continuing detention order under proposed section 14A.

Schedule 3.1 [18] amends section 19 to provide that the State of New South Wales, rather than the Attorney General, is to make applications for the variation or revocation of continuing detention orders or interim detention orders against sex offenders.

Schedule 3.1 [19] amends section 20 to enable the arrest of a person in respect of whom a warrant of commitment is issued as a result of a continuing detention order and who is not in custody.

Schedule 3.1 [20] amends section 22 to provide that, if a matter the subject of an appeal is remitted by the Court of Appeal to the Supreme Court, the order concerned continues in force. The Court of Appeal may make an interim order revoking or varying an extended supervision order or a continuing detention order if a matter is remitted to the Supreme Court.

Schedule 3.1 [21] inserts proposed section 24A to enable the Attorney General (or other prescribed person) to act on behalf of the State of New South Wales for the purposes of applications under the Act.

Schedule 3.1 [22] amends Schedule 2 to enable regulations to be made containing savings or transitional provisions as a consequence of the enactment of the proposed Act.

Schedule 3.1 [23] amends Schedule 2 to apply the amendments made by the proposed Act to offences committed before the commencement of the proposed Act and to persons subject to orders before that commencement.

Schedule 3.2 Bail Act 1978 No 161

The proposed Schedule amends the Act to provide for a presumption against bail for an offence of breaching an extended supervision order and to add an offence to the serious personal violence offences listed for the purposes of the presumption against bail for repeat offenders.

Schedule 3.2 [1] inserts proposed section 8F to create a presumption against bail for a person who is accused of the offence of breaching an extended supervision order or interim supervision order under the *Crimes (Serious Sex Offenders) Act 2006*.

Schedule 3.2 [2] amends section 9D to add the offence of attempting, or assaulting with intent, to have sexual intercourse with a child between 10 and 16 (under section 66D of the *Crimes Act 1900*) to the list of serious personal violence offences for which a repeat offender may only be granted bail in exceptional circumstances.

Schedule 3.2 [3] amends section 32 to make it clear that that section (which contains the matters to be taken into account when considering a bail application) applies to offences to which proposed section 8F applies but does not prevent consideration of matters relevant to the question of whether bail should not be refused.

Schedule 3.2 [4] amends section 38 to require an authorised officer or court to record the reasons for granting bail for an offence to which proposed section 8F applies.

Schedule 3.2 [5] amends Schedule 1 to apply the presumption against bail for an offence of breaching an extended supervision order or interim supervision order to offences committed before the commencement of proposed section 8F, if the person is charged after that commencement. The amendment also applies section 9D of the Bail Act to offences under section 66D of the *Crimes Act 1900* committed before the commencement of the amendment, if the person is charged after that commencement.

Schedule 4 Amendments relating to terrorism

Schedule 4.1 Terrorism (Police Powers) Act 2002 No 115

Schedule 4.1 [1] and [2] amend sections 18 and 22 to provide that, when the exercise of special police powers is authorised in connection with a terrorist act or threatened terrorist act, the power to stop and search vehicles, vessels and aircraft includes the power to enter vehicles, vessels and aircraft.

Schedule 4.1 [5] and [6] amend section 26U to provide that, when a preventative detention order is in force in relation to a person, the power to enter and search premises for the person includes the power to enter and search vehicles, vessels and aircraft for the person.

Schedule 4.1 [8] amends section 27A to provide that the covert search warrant scheme in Part 3 in relation to premises extends to vehicles, vessels and aircraft.

Schedule 4.1 [3] amends section 23 (which relates to the identification and other details that a police officer is required to disclose when exercising a special police power) to make it clear that the information may only be provided after the power is exercised if it is not reasonably practicable to provide the information before or at the time of exercising the power.

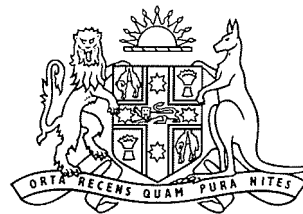
Schedule 4.1 [4] amends section 26E (which precludes the making of a preventative detention order in relation to a child under 16 years of age and which requires the release from detention of any such child who is inadvertently detained under such an order) to require the child to be released into the care of a parent or other appropriate person.

Schedule 4.1 [7] amends section 26ZA to provide that a police officer detaining a person under a preventative detention order need not comply with the requirement under that section to arrange for an interpreter if the officer believes on reasonable grounds that the difficulty of obtaining an interpreter makes compliance not reasonably practicable.

Schedule 4.1 [9] amends section 27U (which provides for the service of an occupier's notice if a Judge approves the notice after the execution of a covert search warrant) to make it clear that service on a person who was believed to be concerned in the terrorist act for which the warrant was executed is only required if that person occupied the relevant premises when the warrant was executed.

Schedule 4.2 Terrorism (Police Powers) Regulation 2005

Schedule 4.2 amends clause 4 (which prescribes the positions of senior police officers who may be delegated authority by the Commissioner of Police to authorise applications for covert search warrants) so that the current positions are described by reference to the relevant area of responsibility rather than by reference to the specific position title.



New South Wales

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Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Acts and regulation	2
4 Repeal of Act	2
Schedule 1 Amendments relating to large-scale public disorders	3
Schedule 2 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 relating to dispersal of intoxicated persons	6
Schedule 3 Amendments relating to serious sex offenders	8
Schedule 4 Amendments relating to terrorism	14



New South Wales

Law Enforcement and Other Legislation Amendment Bill 2007

No. , 2007

A Bill for

An Act to amend the *Law Enforcement (Powers and Responsibilities) Act 2002*, the *Terrorism (Police Powers) Act 2002*, the *Crimes (Serious Sex Offenders) Act 2006* and other Acts to make further provision with respect to police powers and serious sex offenders; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Law Enforcement and Other Legislation Amendment Act 2007</i> .	3 4
2 Commencement	5
(1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).	6 7
(2) Schedule 1.1 [6], 1.2 and 1.3 commence, or are taken to have commenced, on 14 December 2007.	8 9
3 Amendment of Acts and regulation	10
The Acts and regulation specified in Schedules 1–4 are amended as set out in those Schedules.	11 12
4 Repeal of Act	13
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	14 15
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	16 17

Schedule 1	Amendments relating to large-scale public disorders	1
		2
	(Section 3)	3
1.1	Law Enforcement (Powers and Responsibilities) Act 2002 No 103	4
		5
[1]	Section 87D Authorisation of special powers to prevent or control public disorder in public place	6
		7
	Insert at the end of section 87D:	8
	(2) In giving an authorisation, the police officer is to be satisfied that the nature and extent of the powers to be conferred by the authorisation are appropriate to the public disorder that is occurring or threatened.	9
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		12
[2]	Section 87M Power to seize and detain things	13
	Omit “or other communication device”, “or other communication devices” and “or device” wherever occurring.	14
		15
	Insert instead “or other thing”, “or other things” and “or thing” respectively.	16
[3]	Section 87MB	17
	Insert after section 87MA:	18
87MB	Powers exercisable where vehicle outside the target area of authorisation given under this Division	19
		20
	(1) This section applies where:	21
	(a) an authorisation has been given under this Division in connection with a public disorder, and	22
		23
	(b) a vehicle is on a road that is not (or not in an area) the target of the authorisation.	24
		25
	(2) A police officer may exercise the powers conferred under this Division in relation to the vehicle (and any person or thing in or on the vehicle) without the authorisation extending to the vehicle if:	26
		27
		28
		29
	(a) the officer suspects on reasonable grounds that the occupants of the vehicle have participated or intend to participate in the public disorder, and	30
		31
		32
	(b) the officer is satisfied that the exercise of those powers is reasonably necessary to prevent or control the public disorder.	33
		34
		35

(3)	This section does not limit the operation of section 87A (3).	1
(4)	This section does not authorise a police officer to exercise the powers under section 87MA.	2 3
[4]	Section 87N	4
	Omit the section. Insert instead:	5
87N	Emergency exercise of powers	6
(1)	If:	7
(a)	a police officer suspects on reasonable grounds that there is a large-scale public disorder occurring or a threat of such a disorder occurring in the near future, and	8 9 10
(b)	the officer suspects on reasonable grounds that the occupants of a vehicle on a road have participated or intend to participate in the public disorder,	11 12 13
	the officer may exercise the powers conferred under this Division in relation to the vehicle (and any person or thing in or on the vehicle) without an authorisation having been given under this Division in connection with the public disorder or threatened public disorder.	14 15 16 17 18
(2)	Before exercising any such power, the officer must obtain approval to do so (orally or in writing) from a police officer of or above the rank of Inspector. Approval is not to be given unless the police officer is satisfied that the officer seeking to exercise the power has reasonable grounds for the suspicions referred to in subsection (1).	19 20 21 22 23 24
(3)	A police officer is to cease exercising powers under this section:	25
(a)	if the officer is notified that an application for an authorisation under this Division in connection with the public disorder or threatened disorder has been granted or refused, or	26 27 28 29
(b)	if 3 hours has expired since approval was given for the exercise of those powers,	30 31
	whichever first occurs.	32
(4)	This section does not authorise a police officer to exercise the powers under section 87MA.	33 34

[5] Section 87O	1
Omit the section. Insert instead:	2
87O Report to Ombudsman on exercise of powers and monitoring by Ombudsman	3
(1) The Ombudsman is to keep under scrutiny the exercise of powers conferred on police officers under this Part.	4
(2) For that purpose, the Ombudsman may require the Commissioner of Police or any public authority to provide information about the exercise of those powers.	5
(3) The Commissioner of Police is to ensure that the Ombudsman is provided with a report on:	6
(a) any authorisation given under Division 3 or approval given under section 87N, and	7
(b) the reasons for giving the authorisation or approval, and	8
(c) the powers used under the authorisation or approval.	9
(4) The report is to be provided within 3 months after the authorisation or approval ceases to have effect.	10
(5) The Ombudsman is to include, in the annual report of the Ombudsman's work and activities under section 30 of the <i>Ombudsman Act 1974</i> a report of the work and activities under this section.	11
Note. Section 30 of that Act provides for the annual report to be tabled in Parliament.	12
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	23
[6] Section 87P Sunset provision	24
Omit the section.	25
1.2 Crimes Act 1900 No 40	26
Section 59A Assault during public disorder	27
Omit section 59A (4).	28
1.3 Bail Act 1978 No 161	29
Section 8D Presumption against bail for offences committed in the course of riots or other civil disturbances	30
Omit section 8D (7).	31
	32

Schedule 2	Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 relating to dispersal of intoxicated persons	1
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		3
		4
	(Section 3)	5
[1] Section 197 Directions generally relating to public places		6
Omit section 197 (2). Insert instead:		7
(2) A direction given by a police officer under this section must be reasonable in the circumstances for the purpose of:		8
(a) reducing or eliminating the obstruction, harassment, intimidation or fear, or		9
(b) stopping the supply, or soliciting to supply, of the prohibited drug, or		10
(c) stopping the obtaining, procuring or purchasing of the prohibited drug.		11
		12
		13
		14
		15
[2] Section 198		16
Omit the section. Insert instead:		17
198 Directions relating to dispersal of groups of intoxicated persons in public places		18
		19
(1) A police officer may give a direction to an intoxicated person who is in a group of 3 or more intoxicated persons in a public place to leave the place and not return for a specified period if the police officer believes on reasonable grounds that the person's behaviour in the place as a result of the intoxication (referred to in this Part as <i>relevant conduct</i>):		20
(a) is likely to cause injury to any other person or persons or damage to property, or		21
(b) otherwise gives rise to a risk to public safety.		22
(2) A direction given by a police officer under this section must be reasonable in the circumstances for the purpose of preventing that injury or damage or reducing or eliminating that risk.		23
(3) The period during which a person may be directed not to return to a public place is not to exceed 6 hours after the direction was given.		24
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(4)	The other person or persons referred to in subsection (1) (a) need not be in the public place but must be near that place at the time the relevant conduct is being engaged in.	1 2 3
(5)	In this section, <i>intoxicated person</i> means a person who appears to be seriously affected by alcohol or any drug.	4 5
[3]	Section 198A	6
	Insert after section 198:	7
198A	Giving of directions to groups of persons	8
(1)	A police officer may give a direction under this Part to persons comprising a group.	9 10
(2)	In any such case, the police officer is not required to repeat the direction, or to repeat the information and warning referred to in section 201, to each person in the group.	11 12 13
(3)	However, just because the police officer is not required to repeat any such direction, information or warning does not in itself give rise to any presumption that each person in the group has received the direction, information or warning.	14 15 16 17
[4]	Section 201 Supplying police officer's details and giving warnings	18
	Omit "the power" where firstly occurring in section 201 (1).	19
	Insert instead "a power referred to in subsection (3)".	20
[5]	Section 201 (2) (b)	21
	Insert "before or at that time" after "to do so".	22
[6]	Part 16 heading	23
	Insert " detention of " after " Powers relating to ".	24
[7]	Schedule 5 Savings, transitional and other provisions	25
	Insert at the end of clause 1 (1):	26
	<i>Law Enforcement and Other Legislation Amendment Act 2007</i>	27

Schedule 3	Amendments relating to serious sex offenders	1
		2
	(Section 3)	3
3.1	Crimes (Serious Sex Offenders) Act 2006 No 7	4
[1]	Section 3	5
	Omit the section. Insert instead:	6
	3 Objects of Act	7
	(1) The primary object of this Act is to provide for the extended supervision and continuing detention of serious sex offenders so as to ensure the safety and protection of the community.	8 9 10
	(2) Another object of this Act is to encourage serious sex offenders to undertake rehabilitation.	11 12
[2]	Section 6 Application for extended supervision order	13
	Omit “Attorney General” from section 6 (1).	14
	Insert instead “State of New South Wales”.	15
[3]	Section 6 (4)	16
	Omit “the Attorney General would consider”.	17
	Insert instead “are considered to be”.	18
[4]	Section 7 Pre-trial procedures	19
	Omit “Attorney General” from section 7 (2).	20
	Insert instead “State of New South Wales”.	21
[5]	Section 11 Conditions that may be imposed on supervision order	22
	Insert after section 11 (e):	23
	(ea) to reside at an address approved by the Commissioner of Corrective Services, or	24 25
[6]	Section 13 Supervision order may be varied or revoked	26
	Omit “Attorney General” from section 13 (1).	27
	Insert instead “State of New South Wales”.	28

[7] Section 14 Application for continuing detention order	1
Omit “Attorney General” from section 14 (1).	2
Insert instead “State of New South Wales”.	3
[8] Section 14 (4)	4
Omit “the Attorney General would consider”.	5
Insert instead “are considered to be”.	6
[9] Section 14A	7
Insert after section 14:	8
14A Application for continuing detention order on breach of extended supervision order or interim supervision order	9
	10
(1) The State of New South Wales may apply to the Supreme Court for a continuing detention order against a person who is found guilty of an offence under section 12.	11
	12
	13
(2) Section 14 (3) and (4) apply to an application under this section.	14
(3) An application must be supported by documentation that addresses each of the matters referred to in section 17 (4A).	15
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(4) An application may be made for an order against a person under this section whether or not the person is in custody.	17
	18
(5) If a person who is found guilty of an offence under section 12 is serving a sentence of imprisonment by way of full-time detention, an application may not be made until the last 6 months of the person’s current custody.	19
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	21
	22
[10] Section 15 Pre-trial procedures	23
Insert “under this Part” after “application” in section 15 (1) where firstly occurring.	24
	25
[11] Section 15 (2)	26
Omit “Attorney General”.	27
Insert instead “State of New South Wales”.	28
[12] Section 16 Interim detention orders	29
Insert “under this Part” after “application” in section 16 (1).	30
[13] Section 16 (1) (a)	31
Insert “(if any)” after “custody”.	32

[14] Section 17 Determination of application for continuing detention order	1
Insert “under this Part” after “application” in section 17 (1) where firstly occurring.	2 3
[15] Section 17 (4A)	4
Insert after section 17 (4):	5
(4A) In addition to the matters in subsection (4), in determining an application made under section 14A, the Supreme Court must have regard to the nature of the failure to comply with the requirements of the extended supervision order or interim supervision order and the likelihood of further failures to comply.	6 7 8 9 10
[16] Section 17A	11
Insert after section 17:	12
17A Special provisions relating to parole	13
(1) This section applies to a person whose obligations under a parole order are suspended while the person is subject to an extended supervision order and who has been found guilty of an offence under section 12 in relation to the order.	14 15 16 17
(2) Any parole order to which the person is subject is revoked if a continuing detention order is made against the person on an application under section 14A.	18 19 20
[17] Section 18 Term of continuing detention order	21
Insert after section 18 (1):	22
(1A) Despite subsection (1), a continuing detention order made on application under section 14A in respect of a person who is not in custody commences when it is made and expires at the end of such period (not exceeding 5 years from the day on which it commences) as is specified in the order.	23 24 25 26 27
[18] Section 19 Detention order may be varied or revoked	28
Omit “Attorney General” from section 19 (1).	29
Insert instead “State of New South Wales”.	30
[19] Section 20 Warrant of committal	31
Insert “, or arrest and convey,” after “convey” in section 20 (2) (a).	32

[20] Section 22 Right of appeal	1
Insert after section 22 (4):	2
(4A) If the Court of Appeal remits a matter to the Supreme Court for decision after an appeal is made, the extended supervision order or continuing detention order the subject of the appeal continues in force, subject to any order made by the Court of Appeal.	3 4 5 6
(4B) Without limiting any other jurisdiction it may have, if the Court of Appeal remits a matter to the Supreme Court for decision after an appeal is made, the Court of Appeal may make an interim order revoking or varying an extended supervision order or a continuing detention order the subject of the appeal.	7 8 9 10 11
[21] Section 24A	12
Insert before section 25:	13
24A Attorney General etc to act on behalf of State	14
The Attorney General (or any other person prescribed by the regulations) is entitled to act on behalf of the State of New South Wales for the purposes of applications made under this Act.	15 16 17
[22] Schedule 2 Savings, transitional and other provisions	18
Insert at the end of clause 1 (1):	19
the <i>Law Enforcement and Other Legislation Amendment Act 2007</i>	20 21
[23] Schedule 2, Part 3	22
Insert after Part 2:	23
Part 3 Provisions consequent on enactment of Law Enforcement and Other Legislation Amendment Act 2007	24 25 26
4 Definition	27
In this Part:	28
2007 amending Act means the <i>Law Enforcement and Other Legislation Amendment Act 2007</i> .	29 30
5 Application of 2007 amending Act	31
(1) The amendments made to this Act by the 2007 amending Act apply to and in respect of offences committed before the	32 33

commencement of this clause in the same way as they apply to and in respect of offences committed on or after that commencement.	1 2 3
(2) This Act, as amended by the 2007 amending Act, applies to and in respect of a person who is subject to an order under this Act, that commenced before the commencement of this clause in the same way as it applies to and in respect of a person who is made subject to an order under this Act after that commencement.	4 5 6 7 8
3.2 Bail Act 1978 No 161	9
[1] Section 8F	10
Insert after section 8E:	11
8F Presumption against bail for breach of extended supervision orders or interim supervision orders	12 13
(1) A person accused of an offence under section 12 of the <i>Crimes (Serious Sex Offenders) Act 2006</i> is not to be granted bail unless the person satisfies the authorised officer or court that bail should not be refused.	14 15 16 17
(2) The requirement for bail cannot be dispensed with for a person accused of any such offence and section 10 (2) does not apply with respect to any such offence.	18 19 20
(3) Section 9 does not apply to any such offence.	21
[2] Section 9D Repeat offenders—serious personal violence offences	22
Insert “66D,” after “66C,” in paragraph (a) of the definition of <i>serious personal violence offence</i> in section 9D (4).	23 24
[3] Section 32 Criteria to be considered in bail applications	25
Omit “or 8B” from section 32 (6). Insert instead “, 8B or 8F”.	26
[4] Section 38 Reasons to be recorded	27
Insert “8F,” before “9C” in section 38 (1A).	28

[5] Schedule 1 Savings and transitional provisions	1
Insert at the end of the Schedule with appropriate Part and clause numbering:	2
Part Law Enforcement and Other Legislation Amendment Act 2007	3 4
Presumptions against bail	5
(1) Section 8F, as inserted by the <i>Law Enforcement and Other Legislation Amendment Act 2007</i> , extends to a grant of bail in respect of an offence alleged to have been committed before the commencement of that section if a person is charged with the offence on or after that commencement.	6 7 8 9 10
(2) Section 9D, as amended by the <i>Law Enforcement and Other Legislation Amendment Act 2007</i> , extends to a grant of bail in respect of an offence alleged to have been committed under section 66D of the <i>Crimes Act 1900</i> before the commencement of that amendment if a person is charged with the offence on or after that commencement.	11 12 13 14 15 16

Schedule 4	Amendments relating to terrorism	1
	(Section 3)	2
4.1	Terrorism (Police Powers) Act 2002 No 115	3
[1]	Section 18 Power to search vehicles	4
	Insert “, enter” after “stop” in section 18 (1).	5
[2]	Section 22 Offence to obstruct or hinder search or other powers	6
	Omit “or vehicle”. Insert instead “, to stop, enter and search a vehicle”.	7
[3]	Section 23 Supplying police officer’s details and other information	8
	Omit “, or as soon as is reasonably practicable after exercising the power” from section 23 (1).	9 10
	Insert instead “(or if that is not reasonably practicable, as soon as is reasonably practicable after exercising the power)”.	11 12
[4]	Section 26E No preventative detention order in relation to person under 16 years of age	13 14
	Insert after subsection (2):	15
	(3) The person is to be released into the care of a parent or other appropriate person.	16 17
[5]	Section 26U Power to enter premises	18
	Omit “In subsection (2)” from section 26U (3). Insert instead “In this section”.	19
[6]	Section 26U (3)	20
	Insert in alphabetical order:	21
	<i>premises</i> includes vehicle.	22
[7]	Section 26ZA Compliance with obligation to inform	23
	Insert after subsection (3):	24
	(3A) A police officer need not arrange for an interpreter to be present in compliance with the requirement under subsection (3) if the officer believes on reasonable grounds that the difficulty of obtaining an interpreter makes compliance with the requirement not reasonably practicable.	25 26 27 28 29

[8] Section 27A Definitions	1
Insert in alphabetical order in section 27A (1):	2
<i>premises</i> includes vehicle.	3
[9] Section 27U Notice to occupiers of execution of covert search warrant	4
Insert “occupied the subject premises and” after “was executed” where firstly occurring in section 27U (5) (a).	5
	6
4.2 Terrorism (Police Powers) Regulation 2005	7
[1] Clause 4 Delegation of powers to give authorisation	8
Omit “Assistant Commissioner, Counter Terrorism” from clause 4 (1).	9
Insert instead “the Assistant Commissioner responsible for counter terrorism”.	10
[2] Clause 4 (2)	11
Omit “Commander, Counter Terrorist Co-ordination Command” from clause 4 (2).	12
	13
Insert instead “the Assistant Commissioner responsible for counter terrorism investigations”.	14
	15