

c2016-034D  
OPP--OPPOSITION

LEGISLATIVE COUNCIL

Criminal Legislation Amendment (Organised Crime and Public Safety) Bill 2016

First print

Proposed amendments

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- No. 1 **Appeals available against all public safety orders**  
Page 13, Schedule 5, proposed section 87P, line 9. Omit all words on those lines.
- No. 2 **Only Commissioner or Deputy or Assistant Commissioner can make public safety orders**  
Page 13, Schedule 5, proposed section 87P, lines 14 and 15. Omit all words on those lines. Insert instead:  
*senior police officer* means the Commissioner of Police or a Deputy or Assistant Commissioner of Police.
- No. 3 **Serious risk of crime related activity required**  
Page 13, Schedule 5, proposed section 87P. Insert after line 18:  
*serious crime related activity* has the same meaning as in the *Crimes (Serious Crime Prevention Orders) Act 2016*.
- No. 4 **Public safety order cannot be made against children or other vulnerable persons**  
Page 13, Schedule 5, proposed section 87P. Insert before line 19:  
*vulnerable person*—see section 87Q.

**87Q Meaning of “vulnerable person”**

- (1) In this Part, a *vulnerable person* means a person who falls into any one or more of the following categories:
  - (a) persons who are under the age of 18 years,
  - (b) persons who have impaired intellectual functioning,
  - (c) persons who have impaired physical functioning.
- (2) For the purposes of this Part, a person who has impaired physical functioning is taken not to have impaired physical functioning if the senior police officer proposing to make a public safety order against the person reasonably believes that the person’s impairment is so minor that the person will not be significantly disadvantaged with respect to the person’s ability to comply with the proposed order (in comparison with members of the community generally).
- (3) In this section:

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*impaired intellectual functioning*, in relation to a person, means:

- (a) a total or partial loss of the person's mental functions, or
- (b) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction, or
- (c) a disorder, illness or disease that affects the person's thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour.

*impaired physical functioning*, in relation to a person, means:

- (a) a total or partial loss of the person's bodily functions or of part of a person's body, or
- (b) a presence in the person's body of organisms causing or capable of causing disease or illness, or
- (c) a malfunction, malformation or disfigurement of part of the person's body.

No. 5 **Serious risk of crime related activity required**

Page 13, Schedule 5, proposed section 87R (1), lines 29-33. Omit all words on those lines. Insert instead:

- (1) A senior police officer may make a public safety order only if:
  - (a) the presence of the person (or class of persons) concerned at the public event or premises or other area concerned poses a serious risk that the person or persons will engage in or cause serious crime related activity, and
  - (b) the making of the order is reasonably necessary in the circumstances.

No. 6 **Right to be heard before public safety order is made**

Page 13, Schedule 5, proposed section 87R. Insert before line 41:

- (2) A senior police officer must not make a public safety order that applies to a person unless the officer has given the person a reasonable opportunity to be heard about whether the order should be made unless the person cannot be contacted following a reasonable attempt to do so. It is sufficient compliance with this subsection if the person is afforded the opportunity to make written submissions.

No. 7 **Serious risk of crime related activity required**

Page 14, Schedule 5, proposed section 87R (2) (a), lines 3-6. Omit all words on those lines. Insert instead:

- (a) whether the person or persons to whom the order will apply have a history of engaging in serious crime related activity,

No. 8 **Public safety order cannot prevent non-violent advocacy etc**

Page 14, Schedule 5, proposed section 87R (2) (c), lines 15-18. Omit all words on those lines.

No. 9 **Serious risk of crime related activity required**

Page 14, Schedule 5, proposed section 87R (2) (f), lines 36 and 37. Omit "to public safety or security". Insert instead "of persons engaging in or causing serious crime related activity".

No. 10 **Public safety order cannot prevent non-violent advocacy etc**

Page 14, Schedule 5, proposed section 87R (3) (a) and (b), lines 43-48. Omit all words on those lines. Insert instead:

- (a) non-violent advocacy, protest, dissent or industrial action is likely to be the primary purpose for their presence at the public event or premises or other area, or



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- No. 11 **Public safety order cannot be made against children or other vulnerable persons**  
Page 14, Schedule 5, proposed section 87R (3). Insert after line 48:  
(c) the order would apply to any vulnerable persons, or
- No. 12 **Public safety order cannot be discriminatory**  
Page 14, Schedule 5, proposed section 87R (3). Insert after line 48:  
(c) the making of the order would constitute discrimination against any of them on a ground specified by the *Anti-Discrimination Act 1977*, or
- No. 13 **Serious risk of crime related activity required**  
Page 15, Schedule 5, proposed section 87R (5) and (6), lines 7–18. Omit all words on those lines.
- No. 14 **Appeals available against all public safety orders**  
Page 15, Schedule 5, proposed section 87S (1), lines 38 and 39. Omit “if the order is (or is to be) in force for a period exceeding 72 hours”.
- No. 15 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed Division 3, line 28. Omit “long duration”.
- No. 16 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed section 87V, lines 29–31. Omit all words on those lines.
- No. 17 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed section 87W, line 32. Omit “long duration”.
- No. 18 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed section 87W (1), line 33. Omit “long duration”.
- No. 19 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed section 87W (1) (b), lines 36 and 37. Omit “(unless the decision operates to reduce the duration of the order to 72 hours or less)”.
- No. 20 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed section 87W (2), line 38. Omit “long duration”.
- No. 21 **Appeals available against all public safety orders**  
Page 17, Schedule 5, proposed section 87W (3), line 41. Omit “long duration”.
- No. 22 **Appeals available against all public safety orders**  
Page 18, Schedule 5, proposed section 87X (1), line 2. Omit “long duration”.
- No. 23 **Reasonable excuse defence for contravention of public safety order**  
Page 19, proposed section 87ZA. Insert after line 15:  
(2) If a public safety order prohibits a person from entering, or being present at, any specified premises or other specified area, it is a defence to a prosecution for an offence against this section if the defendant proves that the defendant had a reasonable excuse for entering, or being present at, the specified premises or area.
- No. 24 **Public safety order cannot be made against children or other vulnerable persons**  
Page 20, Schedule 5, proposed section 87ZC (2), lines 1–8. Omit all words on those lines.
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