



New South Wales

Terrorism (Police Powers) Amendment Bill 2015

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.
This Bill is cognate with the *Bail Amendment Bill 2015*.

Overview of Bill

The object of this Bill is to amend the *Terrorism (Police Powers) Act 2002* (the **Principal Act**):

- (a) to extend the operation of the scheme in the Principal Act for preventative detention orders for a further 3 years, following the expiration of the current sunset period on 16 December 2015, and
- (b) to remove the authority of the Commissioner and staff of the New South Wales Crime Commission to exercise powers under covert search warrants under the Principal Act.

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 the date of assent to the proposed Act.

Schedule 1 **Amendment of Terrorism (Police Powers) Act 2002 No 115**

Part 2A of the Principal Act establishes a scheme for preventative detention orders that enables a person to be detained without charge for up to 2 weeks to prevent an imminent terrorist act or to preserve evidence of, or relating to, a terrorist act that has occurred. **Schedule 1 [1] and [2]** extend current provision for the sunset of Part 2A of the Principal Act on 16 December 2015, by a

further 3 years. Accordingly, the scheme for preventative detention orders (which includes prohibited contact orders) will continue to operate until the end of 16 December 2018. (This extension is consistent with the extension by the Commonwealth of the operation of its complementary scheme for preventative detention orders.)

Part 3 of the Principal Act establishes a scheme that enables the covert entry and search of premises, under the authority of a special covert search warrant, by specially authorised police officers or staff of the New South Wales Crime Commission for the purposes of responding to or preventing terrorist acts. **Schedule 1 [3]–[20]** have the effect of removing the powers of the Commissioner and staff of the New South Wales Crime Commission under that Part.

Schedule 1 [21] and [22] make consequential amendments.

Schedule 1 [23] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act and any other Act that amends the Principal Act.

Schedule 2 Amendment of Terrorism (Police Powers) Regulation 2011

Schedule 2 amends the *Terrorism (Police Powers) Regulation 2011* as a consequence of the amendment made by Schedule 1 [5].



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New South Wales

Terrorism (Police Powers) Amendment Bill 2015

No. , 2015

A Bill for

An Act to amend the *Terrorism (Police Powers) Act 2002* and the *Terrorism (Police Powers) Regulation 2011* in relation to the schemes for preventative detention orders and covert search warrants.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Terrorism (Police Powers) Amendment Act 2015</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1	Amendment of Terrorism (Police Powers) Act 2002 No 115	1
		2
[1] Section 26ZS Sunset provision		3
	Omit “10 years after the day on which this Part commences” from section 26ZS (1).	4
	Insert instead “16 December 2018”.	5
[2] Section 26ZS (2)		6
	Omit “the end of 10 years after the day on which this Part commences”.	7
	Insert instead “16 December 2018”.	8
[3] Section 27A Definitions		9
	Omit the definitions of <i>Crime Commissioner</i> and <i>eligible staff member of the Crime Commission</i> from section 27A (1).	10
		11
[4] Section 27D Who may be authorised to apply for a covert search warrant		12
	Omit section 27D (2).	13
[5] Section 27F Delegation of Crime Commissioner’s power to give authorisation		14
	Omit the section.	15
[6] Sections 27G and 27I (1)		16
	Omit “, or an eligible staff member of the Crime Commission,” wherever occurring.	17
[7] Section 27G Power to apply for covert search warrant		18
	Omit “or staff member”.	19
[8] Section 27O Powers conferred by covert search warrant		20
	Omit section 27O (2). Insert instead:	21
	(2) A reference in this section to an eligible person, in relation to a warrant, is a reference to an eligible police officer if the applicant for the warrant was an eligible police officer.	22
		23
		24
[9] Section 27S Report to eligible Judge on execution of warrant		25
	Omit “, staff member of the New South Wales Crime Commission” wherever occurring in section 27S (1) (c) (iii) and (3) (d).	26
		27
[10] Section 27S (5)		28
	Omit “or the Crime Commissioner”.	29
[11] Section 27U Notice to occupiers of execution of covert search warrant		30
	Omit “, staff members of the New South Wales Crime Commission” from section 27U (2) (f).	31
		32
[12] Section 27U (11)		33
	Omit “or another eligible staff member of the Crime Commission (if the person was such a staff member)”.	34
		35

[13] Section 27U (11) (b)	1
Omit “or eligible staff member of the Crime Commission (as the case may be)”.	2
[14] Section 27ZA Publication of documents	3
Omit “the New South Wales Crime Commission,” from section 27ZA (2) (b).	4
[15] Section 27ZB Annual report to be given to Attorney General and Police Minister	5
Omit section 27ZB (1). Insert instead:	6
(1) The Commissioner of Police must report annually on the exercise of powers under this Part by eligible police officers.	7 8
[16] Section 27ZB (3) (h)	9
Omit “or eligible staff members of the Crime Commission”.	10
[17] Section 27ZB (3) (k)	11
Omit “or an eligible staff member of the Crime Commission”.	12
[18] Section 27ZB (4) and (5)	13
Omit the subsections. Insert instead:	14
(4) The report may be combined with any other annual report of the NSW Police Force.	15 16
(5) The report is to be tabled in each House of Parliament as soon as practicable after it is received by the Attorney General.	17 18
[19] Section 27ZC Monitoring by Ombudsman	19
Omit “, the Crime Commissioner and members of staff of the New South Wales Crime Commission” from section 27ZC (1).	20 21
[20] Section 27ZC (2)	22
Omit “, the Crime Commissioner”.	23
[21] Section 29A Ministerial arrangements for things seized in connection with extra-territorial offences	24 25
Omit “or (if the things have been seized by a member of staff of the New South Wales Crime Commission) the Commissioner for the New South Wales Crime Commission” from section 29A (a) (ii).	26 27 28
[22] Section 36 Review of Act	29
Omit section 36 (1A). Insert instead:	30
(1A) For the purpose of the review, the Minister may require the Commissioner of Police to provide information about the exercise of functions in respect of covert search warrants under this Act by members of the NSW Police Force.	31 32 33
[23] Schedule 2 Savings and transitional provisions	34
Insert at the end of clause 1 (1):	35
any other Act that amends this Act	36

Schedule 2	Amendment of Terrorism (Police Powers) Regulation 2011	1
		2
Clause 4	Delegation of powers to give authorisation	3
	Omit clause 4 (2).	4