



Australian Capital Territory

Terrorism (Extraordinary Temporary Powers) Amendment Act 2022

A2022-16

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Australian Capital Territory

Terrorism (Extraordinary Temporary Powers) Amendment Act 2022

A2022-16

An Act to amend the *Terrorism (Extraordinary Temporary Powers) Act 2006*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Terrorism (Extraordinary Temporary Powers) Amendment Act 2022*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Terrorism (Extraordinary Temporary Powers) Act 2006*.

**4 Restriction on contact with other people
New section 49 (2) (aa)**

insert

(aa) section 50A (Contact with diplomatic representative etc);

5 New section 50A

insert

50A Contact with diplomatic representative etc

- (1) This section applies if a person detained under a preventative detention order is a national of a foreign country.
- (2) The person is entitled to have the nominated senior police officer tell a diplomatic or consular representative of the country about the person's detention as soon as practicable after the person is detained under the order.
- (3) As soon as possible after the person is detained under the order, the police officer detaining the person must tell the person about their entitlement under this section.

(4) If the person requests that the diplomatic or consular representative be told about the person's detention, the nominated senior police officer must tell the representative about the detention as soon as practicable after receiving the request.

(5) In this section:

national of a foreign country means a person who is not an Australian citizen or permanent resident.

permanent resident means—

- (a) a person who holds a permanent visa under the *Migration Act 1958* (Cwlth), section 30; or
- (b) a New Zealand citizen who holds a special category visa under the *Migration Act 1958* (Cwlth), section 32.

6 Contact with lawyer etc Section 52 (3), note

omit

s 41 (2)

substitute

s 44 (2)

7 Special contact rules for people with impaired decision-making ability Section 53 (5) (a)

substitute

- (a) 4 hours; or

8 New section 53 (7) and (8)

insert

- (7) The police officer detaining the person must take reasonable steps to assist the person in exercising the person's right to have contact with a person under subsection (2).
- (8) If the detained person is not entitled to have contact with another person under subsection (2) (b), because the other person is not acceptable to the police officer detaining the person, the police officer must—
 - (a) tell the detained person the reason why the other person is not acceptable to the officer, unless this would result in the disclosure of information relating to a terrorist act; and
 - (b) give the detained person an opportunity to nominate another person under subsection (2) with whom the detained person wishes to have contact; and
 - (c) make a written record of the following:
 - (i) the other person with whom the detained person sought to have contact;
 - (ii) the reasons why the other person was not acceptable to the officer;
 - (iii) the date and time the detained person made a request for contact under this section;
 - (iv) whether the detained person—
 - (A) was reminded of their right to nominate another person under subsection (2); and
 - (B) nominated another person with whom the detained person wished to have contact.

**9 Taking identification material
New section 59 (2A)**

insert

- (2A) If the police officer believes on reasonable grounds that the person has suffered an injury or illness while detained under the order, the officer must, as soon as practicable—
- (a) make a written record of the injury or illness suffered by the person; and
 - (b) if the injury or illness can be recorded visually—take, or cause to be taken, a photograph or video recording of the injury or illness, in accordance with section 59A.

10 Section 59 (3)

after

subsection (2) (b)

insert

or (2A)

11 New section 59A

insert

59A Recording injury and illness

- (1) This section applies if a photograph or video recording of a detained person's injury or illness must be taken under section 59 (2A).

- (2) Before a photograph or video recording is taken, a police officer must tell the detained person that the person may request—
 - (a) the photograph or video recording be taken by a person of a particular sex; and
 - (b) a copy of the photograph or video recording.
- (3) A written record must be made of the giving of the information under subsection (2), including the person's response (if any).
- (4) The following must be given to the detained person:
 - (a) if requested by the detained person—a copy of the photograph or video recording taken under section 59 (2A);
 - (b) a copy of the record made under subsection (3).
- (5) The taking of a photograph or video recording under section 59 (2A) must—
 - (a) be carried out in circumstances providing reasonable privacy to the detained person; and
 - (b) not involve the removal of more clothing than is necessary for the taking of the photograph or video recording; and
 - (c) not involve more visual inspection than is necessary for the taking of the photograph or video recording; and
 - (d) be carried out in the presence or view of a person only if the person is—
 - (i) reasonably necessary for taking, or assisting in taking, the photograph or video recording; and
 - (ii) if the detained person has made a request that the photograph or video recording be taken by a person of a particular sex—the same sex as the sex requested by the detained person.

**12 Using identification material
Section 60 (1)**

substitute

- (1) Identification material obtained under section 59 from a person detained under a preventative detention order must not be used by a person for a purpose other than—
- (a) deciding whether the detained person is the person stated in the order; or
 - (b) for material taken under section 59 (2A)—for the purpose of a complaint, investigation or proceeding that relates to the injury or illness suffered by the person while detained under the order.

13 Section 100

substitute

100 Review of Act before expiry

The Minister must—

- (a) review the operation and effectiveness of this Act on or after 18 November 2025; and
- (b) present a report of the review to the Legislative Assembly not later than 19 November 2026.

**14 Expiry of Act etc
Section 101 (1)**

substitute

- (1) This Act expires on 19 November 2027.

15 Dictionary, note 2

insert

- Australian citizen
-

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 May 2022.

2 Notification

Notified under the [Legislation Act](#) on 28 October 2022.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Terrorism (Extraordinary Temporary Powers) Amendment Bill 2022, which was passed by the Legislative Assembly on 11 October 2022.

Clerk of the Legislative Assembly

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