

G20 (SAFETY AND SECURITY) BILL 2013

Explanatory Notes

Short title

The short title of the Bill is the G20 (Safety and Security) Bill 2013 (the Bill).

Policy objectives and the reasons for them

The objectives of the Bill are to provide police officers and appointed persons special powers to:

1. protect the safety or security of persons attending any part of the G20 meeting, which is comprised of the Group of Twenty leaders' summit in Brisbane in 2014, and the Group of Twenty Finance Ministers' and Central Bank Governors' meeting in Cairns in 2014, any official meeting of sherpas in Queensland in 2014 and any other G20 event; and
2. ensure the safety of members of the public from acts of civil disobedience in relation to any part of the G20 meeting; and
3. protect property from damage from civil disobedience in relation to an part of the G20 meeting; and
4. prevent acts of terrorism directly or indirectly related to the any part of the G20 meeting; and
5. regulate traffic and pedestrian movement to ensure the passage of motorcades related to any part of the G20 meeting is not impeded.

The 2014 meeting of the Group of Twenty (G20) is to be hosted by Australia. Queensland was nominated by the former Prime Minister as the primary venue for the G20. A G20 meeting consists of a number of meetings under the general G20 umbrella. However, from a Queensland perspective, the two most important of the meetings will be the Heads of State/Heads of Government meeting (Leaders' Summit) to be held in Brisbane on 15 and 16 November 2014 and the Finance Ministers' meeting to be held in Cairns on 20 and 21 September 2014.

In collaboration with other agencies, the Queensland Police Service is responsible for providing security to G20 delegates and for all meeting and accommodation venues, motorcade routes and any other event associated with a G20 meeting. The delegates include Internationally Protected Persons who require stringent security measures to protect their personal safety.

The Queensland Police Service is also responsible for ensuring that members of the public and their property come to no harm as a result of any illegal activities that may be planned by

persons opposed to the G20 meeting. Limited powers are available under the *Police Powers and Responsibilities Act 2000* (PPRA) to deal with an event of this scale and magnitude. Despite the PPRA Special Event legislation, there is a lack of sufficient special powers required to ensure the security of G20 events and the safety of delegates and members of the public. The Bill as a stand alone piece of legislation is beneficial in that it will expire at the end of the G20 period.

Achievement of policy objectives

The Bill contains sufficient police powers for the G20 period to meet the objectives. The Bill contains powers required to ensure the security and safety of the G20 meeting, events and delegates, members of the public and private and public property. The powers in the Bill will allow the Queensland Police Service to provide the level of security that will be both expected and demanded by the Commonwealth, foreign nations attending the G20 and the international community.

The Bill will achieve its objectives by allowing inner and outer security areas and motorcade security areas to be established. The inner security areas known as restricted areas cover the venues for meetings and accommodation. Motorcade security areas will have temporary effect and apply to roads during the time required for the safe movement of the Leaders' motorcades. Surrounding the restricted areas and some motorcade areas will be an outer security buffer zone referred to as a declared area. Despite the outer security area, members of the public will generally be at liberty to go about their daily business in a declared area. Access to different security areas will be limited or conditional under the Bill.

The Bill will further achieve its objectives by providing for additional powers of search, powers to prohibit or exclude persons from security areas, powers in relation to prohibited items and the creation of specific offences under the Bill. In particular, the Bill provides for the following additional powers and provisions to achieve the police objectives:

- declaring additional security areas in the event of an emergency situation arising;
- restricting access to restricted areas and motorcade areas during the G20 meeting;
- excluding access to a security area during the G20 meeting by service of an exclusion notice on a person intent on disrupting a G20 event;
- establishment of a prohibited persons list by the commissioner of the Queensland Police Service;
- requiring a person's personal particulars and reasons for entering or being in a security area;
- searching persons and vehicles seeking to enter a restricted area or a motorcade area, including specific searches, as required;
- enter and search premises within a restricted area;
- restricting possession of prohibited items;
- removing obstruction items including a vehicle that might be left abandoned on a potential motorcade route;
- forfeiture to the State of prohibited items and obstruction items seized during the G20 meeting;
- discretion to close roads, private accesses and waterways;
- limited right for motorcade drivers to disobey the *Transport Operations (Road Use Management) Act 1995*;

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- creation of new offences applicable to the G20 meeting and events;
 - presumption against bail for the limited period of the G20 meeting;
 - appointment by the commissioner of non-State police officers to perform duties during the G20 period;
 - appointment by the commissioner of appointed persons to assist with security arrangements for the G20 meeting;
 - provision for confidentiality of information; and
 - authorising limited disclosure of information by the commissioner.

The Bill also makes amendments to the *Holidays Act 1983* and the *Industrial Relations Act 1999* to prescribe that Friday 14 November 2014 will be a public holiday and that work on that day will be recognised as work on a public holiday.

In addition the *Trading (Allowable Hours) Act 1990* requires amendment to provide for normal Friday shop trading hours on Friday 14 November 2014 rather than the reduced trading hours that would normally apply on a public holiday. The objective of the amendment is therefore to override the Orders in so far as they relate to public holiday trading hours on Friday 14 November 2014 in the Brisbane area by a declaration in the principal legislation.

The G20 Leaders' Summit will have considerable impact on Brisbane particularly in the central business district and South Brisbane areas, in the immediate lead up to and during the summit, as a result of security arrangements and the movement of secure motorcades in and around the city. These amendments will enhance security arrangements and reduce disruptions to commuter road traffic from motorcades moving through Brisbane as foreign dignitaries arrive for the Summit or attend pre-Summit meetings on Friday 14 November 2014.

Alternative ways of achieving policy objectives

As additional police powers specific to the G20 meeting are required, there are no alternative ways of achieving the policy objectives other than through legislation.

Estimated cost for government implementation

The Commonwealth agreed to provide funding to Queensland to cover the additional cost to the State of the G20 meeting being held in Queensland and in particular, to provide security for the 2014 G20 meeting. The Bill is complementary to providing the required level of safety and security for the G20 meeting and as such, other than the costs associated with essential services government staff working on a public holiday, does not impose any additional burdens on State finances.

Consistency with fundamental legislative principles

There a number of provisions of the Bill that are not consistent with fundamental legislative principles. Those provisions together with an explanation for the inconsistency appear below.

Whether legislation has sufficient regard to the rights and liberties of individuals—LSA, s 4(2)(a)

Presumption against bail

Clause 82 provides for a presumption against bail for particular types of offences (basically involving violence) if committed during the G20 period in a security area or at any G20 meeting. The clause places the onus on the accused to show cause why detention in custody is not justified. The presumption effectively allows for the detention of a person who has not yet been proven guilty of an offence.

Response

The presumption against bail relates only to G20 related offences where an element of violence such as assault or damage to property is associated with the offence or the offence results from a person's efforts to disrupt a G20 event. In these cases the person must show cause to the court or police officer that they will not commit another offence. Additionally, if the person is released on bail they will be required to enter an undertaking not to attempt to enter a security area or commit another offence against the Bill.

The clause is aimed at ensuring the safety and security of G20 delegates and members of the public against needless violence and to ensure that a person intent on committing acts of violence is not automatically granted bail so that he or she can continue to commit these acts.

The presumption against bail lasts only for the G20 period, which in the main will be the 3 days before 17 November 2014. Following the expiry of the Act on 17 November 2014, the presumption against bail ends and a person refused bail may again apply for bail.

Some persons unable to enter security areas

Clause 51 provides that prohibited persons must not enter any security area and clause 56 provides that excluded persons are excluded from all or part of a security area. The consequences of an exclusion may involve a significant impact on a person's ability to engage in employment, commerce, social activities or other activities.

Response

Prohibited persons are those who may pose a serious threat to the safety or security of persons or property in a security area; or may, by the person's actions opposing any part of the G20 meeting, cause injury to persons or damage to property outside a security area; or may disrupt any part of the G20 meeting. Given the magnitude of the G20 meeting, the status of those persons attending, and the international obligations Australia has to protect the safety and security of Internationally Protected Persons and international events held in Australia, it is necessary that a person falling within the ambit of a prohibited person is excluded from all security areas during the G20 period. In the case of a prohibited person who is normally resident within a security area, alternative accommodation will be provided at State expense for the period of the G20.

Excluded persons are those who by their actions indicate an intention to pose a threat to, or disrupt, the G20 meeting. A person will not be excluded from a security area until their actions come within those described in clause 55 of the Bill. Nevertheless, provision is made in the Bill for an excluded person who may reside, for example, in the outer areas of a declared area to remain living at their residence provided they access their residence by the shortest route from outside the declared area.

Although the employment and social activities of these persons will be affected if they are normally employed within, or socialise in, a security area, the period during which they will be affected will be minimal and may amount only to the 3 day meeting which occurs on a public holiday and a weekend.

Search of a person without warrant

The Bill provides for extensive searches of the person without warrant, including strip searches (part 4, division 1).

Response

A person is not normally searched with the authority a warrant but rather by virtue of a statutory provision. In this case the Bill provides statutory provisions to allow for the search of persons in defined circumstances. Again those circumstances are restricted by precursors in the legislation and appropriate safeguards apply to a search.

A basic search of a person will, in effect, be similar to those searches conducted prior to a person being permitted to enter a departure area at an airport. Basic searches are non-intrusive and do not adversely affect the dignity of a person. They are necessary to ensure that prohibited items are not unlawfully possessed within security areas where they could be used to harm a G20 delegate or a spectator at a G20 event. Due to the large number of persons who could be subject to a basic search when entering a particular area, the imposition of safeguards to non-intrusive searches would create unnecessary delays in the movement of these persons.

A frisk search involves the search of a person conducted by quickly running the hands over the person's outer clothing and examining anything worn or carried by the person if it is conveniently and voluntarily removed by the person. A frisk search can only be undertaken by a police officer of the same sex as the person searched. If a frisk search is to be conducted in a declared area, a police officer must first have a reasonable suspicion that the person may be in possession of a prohibited item, is a prohibited person or is an excluded person.

A specific search of a person is an intrusive search. However, there are legislative limitations as to when such a search can be made. In the case of a restricted area, the person must be unlawfully in the area and a police officer must reasonably suspect that the person may be unlawfully in possession of a prohibited item. In a declared area, the police officer must reasonably suspect a person is unlawfully in possession of a prohibited item or is a prohibited person or an excluded person. The police officer must either have first conducted a frisk search and still hold a reasonable suspicion a prohibited item is in the possession of the person or must reasonably believe a frisk search will not locate a prohibited item. In the case of a motorcade area, a specific search may only be conducted if the person is unlawfully in the area or a police officer holds a reasonable suspicion that the person is unlawfully in possession of a prohibited item.

A specific search must be conducted by a police officer of the same sex as the person to be searched and must be conducted at a place where there is reasonable privacy for the person unless there is an immediate serious threat.

Declaration without public notice

Under clause 13(2)(b)(i), a declaration may be made urgently because of a threat against the life of a G20 participant. The existence and content of such a declaration may not become

publicly known until the declaration is tabled in the Assembly. However, a recent inclusion in the Bill, provides that a person can not be convicted of an offence involving the declaration until it is published or made known to the person.

Response

The subclause is exceptional in that it can only have effect if a direct threat has been made to the life of a G20 delegate. In this case, alternate accommodation may need to be found for the delegate and the new venue not publically advertised for security purposes. In all other cases notification of additional security areas will be published on the police website and the declaration later tabled in Parliament by the Minister.

As stated, the Bill provides that a person can not be convicted of an offence involving the declaration until it is published or made known to the person.

Restrictions on normal activities

The Bill imposes various restrictions on activities in a security area including a prohibition on possessing items commonly found in residences (e.g. kitchen utensils, baseballs and children's toys that make a loud noise). There are no express safeguards to prevent an undue restriction on a person's ordinary activities in his or her own home. The person must prove a lawful excuse for the possession of a prohibited item or the carrying out of certain activities.

Response

Schedule 6 of the Bill provides a list of items which will be prohibited items in security areas. However, enforcement action cannot be taken with respect to a prohibited item unless it is left unattended in a security area or a person has possession of the item without lawful excuse. Clause 63(3) provides a number of examples of what may amount to a lawful excuse to possess a prohibited item. From the examples it can be clearly seen that a person going about their lawful business will generally not be affected by the provision. For example, a family having a barbeque at South Bank Parkland may still possess and use a knife for the purpose of that barbeque. Likewise, a child playing with a radio controlled toy car in their backyard will not be affected nor will a resident within a security area who has possession of normal household items within their residence. Therefore, everyday activities within a home may continue without concern that an offence is being committed.

Conversely, clause 63(3) lists what may not amount to a lawful excuse for possessing a prohibited item. The examples indicate the type of activity which could pose a threat to the G20 meeting. For example, a person about to fire arrows into the Brisbane River from a longbow; a person discharging a blood coloured liquid into a restricted area; or a person electronically operates a model plane in a way that it could enter a restricted area. These types of activities could pose a threat to the safety of a delegate in that they could be injured by any of the items described.

The examples give a good cross sectional indication of what may be possessed, the manner in which it may be possessed and what amounts to a lawful excuse. However, a lawful excuse could exist in countless other scenarios. A person possessing a prohibited item knows why they have the item and is therefore in the best position to offer a lawful excuse. For example, should a police officer stop a person carrying a knife in a declared area, only that person would be aware of why they are carrying the knife.

Disclosure of personal details by a person

Under clauses 37 and 38, a person may be required to disclose personal details as a condition of entry to a security area or if a person is in a security area. Failure to comply with the requirement, without lawful excuse, is an offence and may result in the person's exclusion from the area. The requirement may be perceived as significantly impacting on a person's privacy.

Response

The provision applies only to security areas. In order to ensure the safety and security of G20 delegates and members of the public, it may be necessary at times to identify a particular person within a security area to establish whether the person may pose a threat to delegates or members of the public. Obtaining the person's personal details such as name and address is the best method of being able to check against a security database whether a person may pose a threat. The provision will be in operation for a limited period and is restricted to G20 purposes.

Disclosure of a person's personal details by the commissioner

Under clause 86, the commissioner may disclose any information in the possession of the police service to various State, Commonwealth and foreign bodies if the disclosure relates to the safety or security of the G20 meeting. The information may include private information about an individual such as the person's criminal history.

Response

As stated the disclosure of information must be for a purpose relating to the safety and security of the G20 meeting. As indicated in the examples to the section this may be the disclosure of an intelligence document about a person who intends to commit an act of violence at a G20 event or it may be the disclosure of an intelligence report, criminal history or information relating to the background and associates of a person who is to hold a Commonwealth accreditation or access approval.

The disclosure can only be made to –

- (a) an agency of the State;
- (b) the Commonwealth G20 Taskforce;
- (c) an agency of the Commonwealth, another State or a foreign government; or
- (d) the police service or police force of the Commonwealth, another State or a foreign government.

Each of the agencies mentioned above have involvement in planning for, and maintaining the security of the G20 meeting or employing persons to provide security at the meeting. It would be ludicrous to suggest that the commissioner could not advise the Commonwealth that a security company if may employ was operated by organised criminals with a history of violence. Equally, the provision of security to G20 participants and members of the public would be seriously impaired if the commissioner could not exchange information with security agencies such as ASIO or with police services or forces regarding persons who may pose a serious threat to a G20 delegate or indirectly to a member of the public.

Removal of headwear worn for religious purposes

It should be noted that clause 29 requires a process to be observed to address potential concerns about the removal of headwear worn for religious reasons.

Response

The religious beliefs of a person who wears a specific type of headwear that needs to be removed for the purposes of a search have been taken into account in the Bill. Although the provision requires, where necessary, the removal of the headwear it must be done in a private area out of view of members of the opposite sex and in the presence of a person of the same sex as the person searched. An exception to the safeguard applies where there is an immediate serious threat to the safety of a person.

Whether legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review—LSA, s 4(3)(a)

Clause 5 provides a general criterion so police officers and others are to have regard to the objectives of the Act when exercising powers under the Act.

In relation to administrative power being subject to appropriate review (that is review on the merits), there is no specific review provision so an aggrieved person (for example that the person is given an exclusion notice) will need to seek review under the *Judicial Review Act 1991*.

Response

An appeal process has not been included in the Act. An exclusion notice will have affect for only a very short period of time. In terms of a declared area in Brisbane the period the declared area will only last for a period of 4 days. Three of these days include a public holiday and a weekend. Therefore, it is unlikely an appeal could be lodged and heard in this time. Any exclusion notice ceases to have affect at midnight on 17 November 2014. Nevertheless, reviews of decisions by way of Judicial Review have not been precluded.

Whether legislation is consistent with principles of natural justice—LSA, s 4(3)(b) Clause 50 provides for a prohibited persons list. The scheme is that the commissioner may place a person's name on the list and then the person is a prohibited person. Notice of intention is not given. However, under clause 51, after the person's name is on the list, the person may make a written submission if the person believes the person's name should not be included. After considering submissions, the commissioner must give written notice of a decision and, if the decision is to retain the person's name on the prohibited person list, the commissioner's reasons for the decision. However grounds for the decision need not be given if the disclosure—

- may be against Australia's national security interests; or
- could damage international relations between Australia and another nation; or
- may be prohibited by a law of the Commonwealth or a State; or
- may place the safety of an informant in jeopardy.

Although the extent to which natural justice is overridden is limited, the explanatory notes should justify overriding the principles of natural justice.

Under clause 55, a person is given an opportunity to have considered any relevant lawful excuse, before a decision is made to give the person an exclusion notice.

Response

Removing the application of the rules of natural justice with respect to some prohibited persons is not unique to this Bill. The provision is based on section 501 of the *Migration Act 1958* (Cmth). In limited circumstances the commissioner will not be required to provide

reasons for a decision to place or retain a person's name on the prohibited persons list. These circumstances are outlined in subclause (4) of the clause. As stated, the only circumstances are when the disclosure of information to a person:

- (a) may be against Australia's national security interests;
- (b) could damage international relations between Australia and another nation;
- (c) be prohibited by a law of the Commonwealth or a State; or
- (d) could place the safety of an informant in jeopardy.

For example, the disclosure of classified information that is received about a person from a foreign intelligence agency could damage future relations between Australia and that foreign nation or may seriously damage investigations into an organisation to which the prohibited person belongs.

Conversely, information of general renown is not protected under the clause and must be disclosed to the person. For example, television footage regarding a person's previous conduct or police arrest reports which indicate the person may attempt to disrupt a G20 event are not protected documents.

Whether legislation allows the delegation of legislative power or administrative power only in appropriate cases and to appropriate persons—LSA, s 4(3)(c)

Under clauses 12 and 13, power is delegated to make additional declarations of security areas to the Governor in Council and, in specific circumstances, to the commissioner. The delegations appear reasonable to allow swift action to be taken to preserve the security and safety of persons attending the G20 meeting in unforeseen circumstances.

Response

The delegations are necessary to act swiftly to preserve the security or safety needs of G20 participants and the public in unforeseen circumstances. The commissioner is well placed to assess those needs. It would be logistically impossible to reconvene Parliament to amend the Bill in order to create the necessary additional security area in a situation where the security area is required as a matter of urgency. For example, a new meeting venue might be required one day out from the G20 Leaders' summit commencing due to damage being done to the intended venue.

Additionally, time may not allow for the preparation of documents for a regulation, convening a Cabinet meeting to sanction the regulation, convening an urgent meeting of the Executive Council to make the regulation and then arranging for the printing of an Extraordinary Government Gazette to publish the regulation.

The commissioner's power to make a security area is an emergency provision not intended to usurp the authority of Parliament or the Governor in Council. In practice and where time permits, Parliament would be requested to pass an amendment to the Bill or the Governor in Council to make a regulation.

If a regulation is made it is subject to the scrutiny of Parliament. Similarly, if the commissioner makes an order, it is also subject to the scrutiny of Parliament as it must be tabled by the Minister within 14 sitting days of the order being made.

Whether legislation reverses the onus of proof in criminal proceedings without adequate justification—LSA, s 4(3)(d)

Under clauses 42 and 48, a direction may be given by a police officer to a person or group including in an amplified way. Clause 69(2) provides a person given a direction has heard and understood it, unless the contrary is proved. Other provisions for a reversal of the onus of proof are clauses 63(4), 67, 94(2) and 95. Clause 63 creates offences in relation to prohibited items, clause 67 creates an offence of lighting a fire in a security area and clause 94 provides for defences in relation to security areas. Clause 95 contains evidentiary aids. It is generally considered facts peculiarly within the knowledge of the defendant and difficult or expensive for the State to prove may afford justification for a reversal.

In relation to clause 95, the department advises in the submission (attachment 3) the relevant evidence is non-controversial. The former Scrutiny Committee has stated that it does not object to “certificate evidence” being admissible where the matters in question are non-controversial: Alert Digest 2006, No. 5, p 24, para 36. The evidentiary aids are akin to certificate evidence.

Response

A person must not possess a prohibited item in a security area unless the person has a reasonable excuse for so doing. Five examples are provided in clause 63(3) as to what amounts to a lawful excuse. However, a lawful excuse could exist in countless other scenarios. A person possessing a prohibited item knows why they have the item and is therefore in the best position to offer a lawful excuse. For example, should a police officer stop a person carrying a knife in a declared area, only that person would be aware of why they are carrying the knife. The same rationale can be applied to a person who fails to comply with a direction given by a police officer. The direction might be to move an indicated distance away from a particular location. A person who refuses to move would perhaps be the only person who knows the reason for not moving. In these instances an opportunity is provided to the person to offer a lawful reason for their actions prior to the person being prosecuted for an offence.

Likewise, a person is not permitted to enter a restricted area or a motorcade area unless the person has Commonwealth accreditation for the restricted area or the approval of a superintendent of police for a restricted area or motorcade area. Should a person enter these areas, a police officer may ask the person for their special justification for being in the area. The special justification may amount to nothing more than producing an accreditation. Again the person is in the best position to offer special justification for being in a high security area.

Regarding clause 69 the presumption that a person heard and understood a direction is rebuttable. Therefore, a person can raise as a defence that they did not hear a direction due to a hearing impairment or extraneous noise or they do not understand English.

The provision is necessary. In the case of a violent protest such as has been witnessed at other G20 meetings, police need to be able to act to remove protestors from a security area in order to ensure the safety and security of G20 delegates, persons lawfully in the security area and businesses within that area. The provision provides that a direction must be given not to enter or to leave a security area before police can take action to disperse protestors. In practice the direction will be broadcast over an amplification system. Clearly, it is totally impractical to warn each and every person individually in a crowd intent on riot that they must leave a

security area. As stated, if a person involved in a riot does not hear a direction to leave then they may raise that as a defence if they are charged with an offence.

The evidentiary provisions of clause 95 relates only to statements that an order was made declaring a stated area to be an additional declared area, additional restricted area or an area subject to an emergency declaration. Also, it allows for a statement that a person was a police officer or appointed person at a stated time and that a document purporting to be signed by a delegate is proof of the delegation unless the contrary is proved.

The provision does not weigh against a fair trial for an accused person nor does it lessen the substantive evidence that must be given by the prosecution to prove its case. It does, however, reduce the number of needless witnesses who would be required if every appointment was required to be proved. The issues addressed are non-controversial.

Whether legislation confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer—LSA, s4 3(e)
 Clause 33 provides a police officer may enter and search any premises in a restricted area without a warrant. However, access to residential premises is safeguarded, as residential premises may not generally be entered without consent.

Response

The search of premises without a warrant is restricted to –

- (a) a premises located in a restricted area or abutting a restricted; and
- (b) only that part of the premises not being used for residential purposes.

Consequently, the section does not authorise the search of a person's home without a search warrant, consent or emergency authority under the PPRA. By way of example, a walk through search may be conducted of restaurants within the accommodation venues in restricted areas to ensure they are safe for G20 delegates to dine in. It would be a lengthy process to require a police officer to obtain a search warrant each time this type of search is to be conducted during the G20 meeting period, particularly given the businesses are usually open to entry by members of the public.

Whether legislation provides appropriate protection against self-incrimination—LSA, s4(3)(f)
 Although failure to comply with a requirement under clause 36 to state a person's reason for wanting to enter a security area, or for being in a security area, is not an offence (it may result in exclusion from the area if a lawful reason is not given), it may be perceived to be a denial of the protection against self-incrimination.

Response

The provision allows a police officer or an appointed person to stop a person seeking to enter, or who is in, a restricted area or motorcade area and require the person to provide a lawful reason why they are in that location. A police officer may seek the information from a person entering, or who is in, a declared area.

Given the level of security that must be maintained during the G20 meeting to ensure the safety and security of delegates and members of the public, it is not considered this is an unrealistic imposition on a person. Should the person refuse to answer for fear of self-incrimination, they will simply be denied entry to the security area or removed from it. There are no offence provisions relating to a failure to provide the required information.

Whether legislation provides for the compulsory acquisition of property only with fair compensation—LSA, s 4(3)(i)

Clauses 83 and 84 provide for compensation when a person (including a prohibited person but not an excluded person) is denied access to a security area but it is limited to a loss of residence and does not include situations where the restrictions prevent the person from conducting his or her ordinary business activities.

Certain provisions provide for seizure of property and subsequent forfeiture without the involvement of a court. Clause 44 provides for seizure and forfeiture of obstruction objects. Clauses 60 and 61 provide for seizure and forfeiture of some prohibited items.

Response

The compensation provision relates only to ensuring that a person normally resident in a restricted area who may not reside in that area during the G20 meeting and prohibited person who normally resides in a security area will be provided with alternative accommodation for the duration of the G20 meeting. Effectively, this will be from the commencement of the declared area in Brisbane on 14 November 2014 until 17 November 2014 when the Bill expires.

It is not intended to provide compensation to a prohibited person for loss of income during this 4 day period.

Regarding the forfeiture of property, an obstruction object means a thing placed in, or in the vicinity of, a security area or any other area in a way intended or likely to—

- (a) impede passage to or through the security area; or
- (b) seriously disrupt traffic flow; or
- (c) impede a motorcade.

An obstruction object is used as part of deliberate act to obstruct and as such needs to be seized and removed immediately. Where a person places an object in a manner to cause any of those matters listed in paragraphs (a) to (c) above to occur, they do so in the knowledge that the object will be forfeited to the State. Forfeiture allows for the swift removal and disposal of the offending object.

A prohibited item is only seized and thus forfeited where it is left unattended or a person possesses it in a security area without lawful excuse. A knife used at a barbeque will not be subject to forfeiture, whereas a long bow used to fire an arrow across the Brisbane River will be subject to forfeiture. The provision will not affect any person going about their lawful business but will allow for the swift seizure and disposal of an item used in a manner which could be injurious to a person or not permitted by law.

Other issues

Clause 17 provides the Peaceful Assembly Act 1992 does not apply to an assembly in a security area. However, clause 18 states the circumstances in which an assembly in a declared area is lawful. The circumstances appear to be in conformity with articles 21 and 22 of the International Covenant on Civil and Political Rights, as necessary in the interests of public safety or public order.

Response

Clause 17 of the Bill excludes application of the *Peaceful Assembly Act 1992* in a security area. This is necessary to avoid confusion between that Act and the Bill and to introduce a less formal and time effective approval and consultation process which is more appropriate to the nature of the G20 meeting and the expected number of protests it will attract. Outside the boundaries of security areas the *Peaceful Assembly Act 1992* continues to apply.

Clause 18 provides for peaceful assemblies to be lawful in declared areas with some restrictions. However, for safety and security reasons some restrictions are placed on assemblies. The restrictions are reasonable given the high level of security that must apply to the G20 meeting. Obviously, a person will not be given access to a restricted area or a motorcade area for the purpose of assembly or protest.

Therefore, a person will be entitled to assemble with others and, if desired, protest against a particular issue provided the person does not –

- possess a prohibited item without lawful excuse (by application of clause 63). A prohibited item list is provided in the Bill and may include items such as paint bombs, metal bars or spikes that can be thrown onto a road used by a motorcade;
- disrupt a G20 event;
- commit an offence against Queensland laws; or
- commit a violent disruption offence such as assaulting a G20 delegate.

Other than the restrictions imposed on unlawful acts, the organiser of an assembly merely has to notify the commissioner of the intended assembly at least 48 hours before holding the assembly and the commissioner will arrange for police liaison officers to offer advice and assistance in the conduct of a lawful assembly. This may include arranging a location for the assembly that does not abut the location of an assembly organised by a group of opposing ideals. Should an organiser fail to notify the commissioner of the assembly or refuse to negotiate with liaison officers, the assembly is not unlawful and may still go ahead.

The Bill will necessitate significant road closures (cl 39). This is likely to cause considerable delay and inconvenience to road users.

Response

The G20 meeting will necessitate the closure of roads to ensure the unimpeded passage of motorcades through the Brisbane city area. Unimpeded passage of motorcades is essential to ensuring the safety and security of G20 leaders and delegates. However, the Bill has been structured in such a manner that disruption to traffic will be kept to a minimum by closing roads only for the period they are needed for motorcade purposes. Some roads bordering restricted areas may be closed for security and traffic management reasons. However, alternate routes will be available for general traffic. Additionally, a public holiday has been declared for the Brisbane area to reduce the need for persons to travel into the inner city area on the business day before the G20 meeting commences. The meeting will be held over a weekend.

Power to publicly publish a prohibited person's name, photo and description (cl 52).

Response

It is not the intent of the clause to generally allow a person's personal details to be made public. The example in subclause (2) outlines the type of very limited circumstances which in practice would see a person's name and details being made public.

Obviously a prohibited person's details will be made available for restricted circulation to police officers, close personal protection officers and some appointed persons and for the purposes of identification. Simply put, without this restricted circulation, the persons providing security and intelligence would not be aware of who is a prohibited person and therefore could not take action to prevent a prohibited person entering a security area or committing another G20 related offence.

Clause 35 is based on the Police Act, section 38. Clause 35 confers immunity from civil liability on the detection dog handler and the State in relation to the use of a detection dog under the Bill. The former Scrutiny of Legislation Committee stated in relation to section 38 that, given the nature of the drug detection activities authorised under legislation to be carried out by drug detection dogs, the immunities granted to the dogs' handlers and the State were generally appropriate: Alert Digest 2005, No. 11, page 8, paragraphs 13–20.

Response

The section is based on section 38 of the PPRA. Although it relates to searches for explosives rather than illicit drugs, the foundation upon which it is based is similar. The former Scrutiny of Legislation Committee stated (in relation to section 38) that given the nature of the drug detection activities authorised under the legislation to be carried out by drug detection dogs, the immunities granted to the dogs' handlers and the State were generally appropriate (see Alert Digest 2005, No. 11, page 8, paragraphs 13-20).

Clause 76 exempts motorcade drivers from particular offence provisions of the Transport Operations (Road Use Management) Act 1995.

Response

The clause allows the driver of a vehicle in a motorcade to disobey the provisions of the *Transport Operation (Road Use Management) Act 1995* (TORUM) other than the drug or drink driving provisions. However, the motorcade must be under police escort at the time.

For security reasons, motorcades need to travel at a determined speed which may be in excess of the 60 kilometre per hour speed limit. Also for security reasons, motorcades cannot stop at stop signs or red traffic control signals, although in the case of traffic lights the intersection will be under police control.

Each motorcade will have a substantial police escort which will lead the motorcade through the determined route. The police escort will be able to activate flashing lights and sirens where necessary with additional police officers controlling intersections where needed. The roads upon which a motorcade travels will be closed to general traffic movement. Therefore, any breach of the TORUM will not place a member of the public in danger. Additionally, the provisions of the Criminal Code relating to dangerous operation of a motor vehicle will continue to apply.

Clause 77 grants immunity to a person engaged by the State who complies with a police officer's direction to disobey particular offence provisions of that Act.

Response

The clause allows a police officer to give a direction to the driver of a vehicle to disobey a provision of the *Transport Operation (Road Use Management) Act 1995* (TORUM), other than the drug or drug driving provisions. The immunity applies only in an emergency for the purpose of dealing with the emergency.

The clause is required to allow for the rapid deployment of equipment or personnel to a particular location. For example, should a protest turn violent to the extent that the safety of persons is at risk, it may be necessary to urgently deploy members of the police Public Safety Response Team (PSRT) to the location to control the protest. In this case, the PSRT members may be on a bus driven by an employee of the bus hire company. Therefore, a police officer can direct the driver of the bus to slow down but not stop at traffic control signals or stop signs. It is anticipated in the scenario provided that the bus would also be under police escort such as a motorcycle escort. The provisions of the Criminal Code relating to dangerous operation of a motor vehicle will continue to apply.

Clause 102 provides for what happens if the G20 meeting is cancelled. If a regulation declares that the G20 meeting is cancelled, clause 102 provides that the provisions that would have expired on 17 November 2014 expire on the date stated in the regulation. The provisions can be repealed by Parliament when appropriate or allowed to expire on 17 November 2015.

Response

It is necessary to have a way in which to cancel the operation of the Bill should the G20 meeting be cancelled. As there is a possibility that Parliament will not be sitting at the time it is necessary to cancel the Act, provision has been made in the Bill for Parliament to empower the Governor in Council to act on its behalf and cancel the Bill.

Consultation

Public consultation was not undertaken with respect to the Bill as the additional powers required for policing the G20 meeting are specialist in nature, relevant only to very limited geographical areas and will remain in force for a very short time frame. Additionally, there is an international expectation that Queensland will provide those policing powers essential to maintaining a high level of safety and security during the G20 meeting.

Consultation was undertaken with the Commonwealth G20 Taskforce to ensure that particular needs for the G20 meeting are addressed in the legislation.

Consistency with legislation of other jurisdictions

The Bill is not structured on uniform national legislation nor does it offer legislation that is complementary to that of the Commonwealth or another State or Territory.

The G20 Leaders' Summit and the Finance Ministers' and Central Bank Governors' meeting will be held in Queensland. Consequently, there is no need for the legislation to be replicated by other States or Territories.

However, when preparing concepts for the Bill, consideration was given to provisions of the *Commonwealth Heads of Government Meeting (Special Powers) Act 2011* (WA) and the *APEC Meeting (Police Powers) Act 2007* (NSW). Appropriate provisions from these Acts have been adapted and incorporated into the Bill.

Reasons for non-inclusion of information

There has been compliance with section 23(1) of the *Legislative Standards Act 1992*. Therefore, the requirements of section 23(2) of that Act do not apply to the Explanatory Notes.

Notes on provisions

Part 1 - Preliminary

Clause 1 – Short title

This clause provides that, when enacted, the Bill will be cited as the *G20 (Safety and Security) Act 2013*.

Clause 2 – Objectives

The clause outlines the objectives of the Bill.

They are to provide police officers and non-State police officers and appointed persons with special powers –

- to promote the safety and security of persons attending any part of the G20 meeting which consists of the leaders' summit in Brisbane; the G20 Finance Ministers' and Central Bank Governors' meeting in Cairns; any official meeting of sherpas held in preparation for the leaders' summit or in relation to the leaders' summit, the Cairns meeting or any other event or meeting related to the summit or a finance meeting; or any other G20 event; and
- to ensure the safety of members of the public from acts of civil disobedience in relation to any part of the G20 meeting. This may include a violent protest held in Queensland where the safety of members of the public is placed at risk; and
- to protect property from damage from civil disobedience in relation to any part of the G20 meeting; and
- to prevent acts of terrorism directly or indirectly related to any part of the G20 meeting; and
- to regulate traffic and pedestrian movement to ensure the passage of motorcades related to any part of the G20 meeting is not impeded.

Without limiting the listed objectives subclause (2) provides the objectives include –

- promoting the safety and security of the venues and facilities used or to be used for any part of the G20 meeting. A facility may be an external access to a building where a meeting is to be held or a security perimeter around a meeting or accommodation venue; and
- promoting the safety and security of accommodation for persons attending any part of the G20 meeting; and
- promoting the safety and security of motorcade routes used or to be used for transporting persons attending any part of the G20 meeting.

Clause 3 – Act binds all persons

The Bill will apply to all persons. It will also apply to the State Government, State Government departments, and where it is within the legislative power of the State, to the Commonwealth and other States.

However, none of the provisions of the Bill will make the State, the Commonwealth or another State liable to be prosecuted for an offence.

Note: By virtue of section 33A of the *Acts Interpretation Act 1954*, a reference to a State as referred to above includes a reference to the Australian Capital Territory and the Northern Territory.

Clause 4 – Application of Police Powers and Responsibilities Act

The Bill prevails, to the extent of any inconsistency, over the *Police Powers and Responsibilities Act 2000* (PPRA) in relation to any power conferred or responsibility imposed under the PPRA on a police officer.

To remove any doubt, it is declared that section 11(3) of the PPRA does not apply to a provision of this Act that confers a power or imposes a responsibility on a police officer. Section 11(3) of the PPRA provides that to the extent of any inconsistency, the PPRA prevails over the inconsistent provision of another Act, whether it is enacted before or after the PPRA, unless the provision makes express provision to the contrary. In this case, clause 4 makes express provision to the contrary.

Subclause (3) specifically removes the application of section 624(2) of the PPRA to the Bill. Section 624(2) is unnecessary as the type of search to which it might have applied is a basic search such as those conducted at airports when moving into departure lounges.

Subclause (4) applies chapter 17, part 4 of the PPRA to an offence against the Bill as if the offence were an identifying particulars offence within the meaning of the PPRA. Consequently, the identifying particulars of a person arrested or issued with a notice to appear for an offence under the Bill may be taken for identification purposes, for example, fingerprints.

Subclause (5) provides that Chapter 21, Part 2, Division 3 of the PPRA does not apply to a police officer exercising powers under the Bill. In this case the need to complete register entries have been substantially reduced to that required under the PPRA. As register entries are time consuming it would necessitate police officers being taken off operational duties to comply with the PPRA requirements. This is likely to adversely impact on the maintenance of security measures and may not be feasible in the case of any significant civil disobedience where police numbers would need to be maintained for operational purposes. A register relating to arrests and exclusion notices will be maintained as part of the policy of the Police Service.

Subclause (6) allows the exercise of a power conferred on a police officer under another Act unless expressly excluded by the Bill. For example, an offence relating to the arson of a building would be dealt with under the provisions of the PPRA. Additionally, as the Bill does not provide the means through which a police officer may search a place such as a house with a warrant, the police officer is entitled to obtain a search warrant under the PPRA. This is despite the fact that the search may be related to the G20, for example, a police officer may be searching for weapons with which a person intends to shoot at a G20 delegate.

Clause 5 – General criterion for performance of functions etc.

The clause applies to the performance of a function under the Bill by the commissioner, a deputy commissioner or assistant commissioner, a police officer including a non-State police officer, or an appointed person.

The persons listed must perform a function under the Bill having regard to the objectives of the Bill. Performing a function includes exercising a power.

Clause 6 - Definitions

Definitions for particular words used in the Bill can be found in the dictionary to the Act which is located in schedule 7 of the Bill.

Part 2 – Security areas

Division 1 – What is a security area

Clause 7 – Security areas

The clause provides that a security area consists of a declared area, a restricted area, and a motorcade area.

Clause 8 – Application of this Act to the security areas

The clause provides when the provisions of the Act are to apply to security areas or other areas or to any part of those areas.

Clause 9 – Declared areas

The area of a declared area is displayed by map which can be viewed in Schedules 2 and 3 of the proposed Act. The areas of maps, may by regulation, be reduced in size or an area or place in a map be excluded from the declared area. Additional declared areas may be made. Also, the area of the footpath on either side of a motorcade area, unless it is a restricted area, is a declared area. This will mean that footpaths on either side of a motorcade area that is not within a declared area as shown on the maps become declared areas during the period of the declaration of the motorcade area.

As any map incorporated into a hardcopy Act must be restricted to A5 paper size a map can be viewed on the Queensland Police website at www.police.qld.gov.au where a larger format will be available.

Primarily, a declared area creates a G20 security zone which is accessible to members of the public other than prohibited persons and persons who are excluded from a part, or all, of a declared area. There are restrictions on conduct within a declared area and restrictions on the possession of prohibited items.

In most cases a declared area will act as a buffer security zone adjacent to or surrounding a restricted area or a motorcade area.

Clause 10 – Motorcade areas

The clause defines a motorcade area. Motorcade areas constitute only the road surface on which vehicles would normally travel or an area of waterway. In the case of roads it does not include footpaths which will be declared areas. A footpath is to be given its usual meaning, as defined in schedule 4 of the *Transport Operations (Road Use Management) Act 1995*, as an area open to the public that is designated for, or has one of its main uses, use by pedestrians. Therefore, the bitumen surface commonly referred to as the shoulder of a road which may be between a traffic safety barrier and a painted line marking the border of a traffic lane, such as is found on the inner city by-pass in Brisbane, does not constitute a footpath as it is not open to members of the public for that purpose.

A declaration of an area to be a motorcade area can be made by a police officer of at least the rank of superintendent or a police officer acting in that capacity (a senior police officer). A motorcade area declaration has effect when it is published on the prescribed website which generally will be the Queensland Police Service website at www.police.qld.gov.au. If a prescribed website is not available then the declaration has effect when it is publically published in another way, for example, by an announcement over a radio station or television station or through a social media.

The declaration will be in writing on a form prepared for the purpose. It will state the date and time of commencement of the motorcade area and state the particular road or roads that form the motorcade area.

Declared motorcade areas will not remain in continuous effect during the entire period of the G20 meeting as to do so would prevent those roads from being used by members of the public for several days. Therefore, motorcade area declarations will remain in force until the declaration is revoked by a notice by a police officer of at least the rank of superintendent published on the prescribed website. In practical terms, an area will only be declared to be a motorcade area for the time necessary to conduct a motorcade with the required level of security.

The clause provides that if there is an overlap between a motorcade area and a declared area, the motorcade area prevails to the extent of the overlap. Effectively, this means that the restrictions associated with motorcades continue to apply even though the motorcade area might also be within a declared area to which fewer restrictions apply.

Clause 11 – Restricted areas

The clause provides that restricted areas are defined by hatched areas on maps within schedules to the Bill. As in the case of clause 9, maps of restricted areas may also be viewed on the Queensland Police Service website at www.police.qld.gov.au.

Subclause (5) provides that the boundaries of a restricted area may be reduced in size by a senior police officer. The areas encompassed by boundaries shown on the maps are suitable to provide safety and security for G20 delegates in the event of acts of civil disobedience outside a particular venue. However, flexibility has been built into the section to allow for the boundaries to be reduced if safety and security needs can be addressed by a smaller restricted area. This concept will minimise disruption to members of the public passing a restricted area. The boundary of a restricted area is to be marked by a cordon, barrier or a similar thing.

For example, the restricted area boundaries shown in the map to Part 6 of Schedule 5 (Royal on the Park Hotel) encroach over Alice Street, Albert Street and Margaret Street. In practice, these boundaries will be reduced by cordons, barriers or the like so that traffic can continue to move along these streets in the normal manner. The outer limits of the restricted area would only be utilised should the likes of a violent protest occur in the vicinity of the Royal on the Park Hotel. The subclause allows for the boundaries to be adjusted inwards or outwards as the need dictates. However, the boundary of a restricted area cannot be extended beyond that which is indicated in the maps.

Subclause (7) provides that if there is an overlap between a restricted area and a declared area, the restricted area prevails to the extent of any inconsistency. Effectively, this means that the restrictions associated with restricted areas continue to apply even though the restricted area might also be within a declared area to which fewer restrictions apply.

The remainder of the clause relates to boundaries of restricted areas being available to access on the Queensland Police Service website at www.police.qld.gov.au.

Division 2 – Additional security areas

Clause 12 – Additional (non-emergency) security area

Provision is available in the clause to make a regulation to declare an area of land or water, other than a security area defined by the proposed Act, as an additional restricted area or declared area. Where time permits, this will allow any necessary additional security areas, for example, additional restricted accommodation venues, to be declared by the Governor in Council and through that process, later overviewed by Parliament.

However, where there is not ‘enough time to make a regulation’ to declare an additional security area through the regulation making process, the commissioner of police may, with the approval of the Minister, declare an area of land or water to be an additional restricted area or declared area. It is expected that if this provision is to be utilised, it would be in circumstances where there is an immediate need to extend a security area or declare an additional security area. Such a need might arise if an alternative meeting venue or accommodation venue for G20 delegates is required as a matter of urgency. The term ‘enough time to make a regulation’ is defined in subclause (9).

An additional security area declared by the commissioner may also be required if a declared area needs to be extended to subdue acts of violent civil disobedience at the outskirts of an existing declared area. In this case the extension would be subject to the provisions of clause 12(3)(a) which refers to the safety and security of the G20 meeting, people attending the meeting or the public.

An order need not be for the entire period until the proposed Act expires, nor need it be in force at all times during that period. The order can be for a limited period that serves the purposes of the making of the order.

The order made by the commissioner commences when it is published on the prescribed website or the later time stated in the order. Based on additional time restraints in doing so, it

is not necessary to publish the order in the Government Gazette. However, the Minister must table the order within 14 sitting days after it is made.

Clause 13 – Additional (emergency) security area

The clause allows the commissioner of police to make a declaration under clause 12 without the Minister's approval if a declaration is required as a matter of urgency and the delay in obtaining the Minister's approval would compromise the security or safety of the G20 meeting.

An order made by the commissioner has effect when it is made, if the delay in obtaining the Minister's approval to make the order would be likely to substantially compromise the security or safety of the G20 meeting because a direct threat has been made against the life of a G20 participant, or otherwise, when the order is published on the prescribed website.

Based on additional time restraints in doing so, it is not necessary to publish the order in the Government Gazette. However, the Minister must table the order within 14 sitting days after it is made.

Division 3 – Accreditation or approval to enter particular security areas

Clause 14 – Accreditation issued by Commonwealth

Entry to restricted areas can be permitted by the Commonwealth accrediting a person to enter. The Commonwealth may apply limitations or restrictions on the accreditation issued by it. For example, delegates to the G20 meeting may be accredited with access to all parts of the Brisbane Convention and Exhibition Centre (BCEC) under Commonwealth lease whereas a kitchen hand preparing meals for delegates may only be accredited to enter the kitchen area of the BCEC during the person's hours of work. Commonwealth accreditation does not apply to motorcade areas.

Clause 15 – Approval given by senior police officer

A senior police officer can approve the entry of a person to a restricted area or a motorcade area. A person who is not accredited by the Commonwealth may still need to enter a restricted area. For example, the person may be a doctor who needs to provide medical treatment to a G20 delegate or the person may be a police officer who needs to enter a restricted area to perform duty within that area. The approval process operates independently to the Commonwealth accreditation process but has the same effect. The senior police officer may apply limitations or restrictions on the approval issued by the officer.

Part 3 – Lawful assembly

Clause 16 – Purpose of pt 3

The clause provides the purpose of this part is to allow for lawful assemblies in declared areas during the G20 period while ensuring the safety and security of all parts of the G20 meeting. Assemblies are not permitted in a restricted area or a motorcade area.

Clause 17 – Application of Peaceful Assembly Act 1992

The clause provides that the *Peaceful Assembly Act 1992* does not apply to an assembly in a security area.

Clause 18 – When assembly is lawful

An assembly is not prohibited within a declared area which includes the footpath bordering a motorcade area. An assembly is not permitted within a restricted area or in a motorcade area. Restricted areas are closed access areas established to provide safety and security to G20 delegates. Access to motorcade areas is closed to ensure the safety and security of motorcades moving through those areas and the safety of members of the public who could be involved in a traffic incident with a motorcade vehicle should they be permitted to enter the area.

Subclause (1) provides the conditions upon which a peaceful assembly is lawful. The subclause is not intended to inhibit the implied freedom of speech under the Commonwealth of Australia Constitution Act. Thus, subject to the legislative restriction of the Bill in terms of possession of prohibited items and unacceptable conduct such as lighting fires, a person may exercise the right of peaceful protest within the confines of a declared area.

By virtue of subclause (2) an assembly does not include a group of unrelated spectators. For example, a group of persons waiting to watch a motorcade pass who also happen to be standing beside an assembly of persons who are protesting against the motorcade occupants are taken not to be associated with the assembly.

Also for the purposes of subclause (1)(d), the term, *violent disruption offence*, is defined in subclause (2).

Clause 19 – Organising an assembly

The clause provides that before holding an assembly, the organiser of the assembly must give the commissioner notice of the proposed assembly at least 48 hours before holding the assembly. In terms of subclause (2) the commissioner will make a police liaison officer available to consult with the organiser of the assembly. The purpose of the consultation is to avoid possible conflict that could arise should two opposing groups conduct an assembly in close proximity of each other. For example, negotiations can be conducted to keep a distance of 200 metres between a group that is assembled in support of a particular G20 delegation or a particular political issue and a group that is assembled in opposition to the delegation or the political issue.

The purpose is also to provide information to the organiser on the requirements and restrictions of the proposed Act to lessen the chance of an offence being committed under the proposed Act, for example, an assembly moving onto a motorcade area.

However, a failure by the organiser of an assembly to give notice to the commissioner or to consult with a liaison officer will not render an assembly unlawful nor will refusing to change the date and time of an assembly.

Part 4 – Special powers in relation to security areas

Division 1 – Searches of the person

Subdivision 1 – Types of searches

Three types of searches of persons are provided for in the Bill. These searches are a basic search, a frisk search and a specific search.

Clause 20 – What is a basic search

The clause outlines what constitutes a basic search. A basic search is a search using electronic screening devices, an inspection of a person's belongings and/or walking an explosives detection dog past a person. A basic search is similar to searches routinely conducted at airport security checkpoints. Basic searches are non-intrusive and do not adversely affect the dignity of a person. They are, in effect, similar to the type of search a person might expect when entering an airport departure area.

Clause 21 – What is a frisk search

The clause outlines what constitutes a frisk search. A frisk search is a 'pat down' search of a person including an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person, for example, a hat or bag.

Clause 22 – What is a specific search

The clause outlines what constitutes a specific search. A specific search is a search of all clothing worn by a person, a strip search of a person and/or a medical x-ray of the person.

Subdivision 2 – Who may conduct search in security area

Clause 23 – Who may conduct search in a restricted area

The clause outlines who may conduct a search of a person who is attempting to enter, about to enter, is in, or is leaving a restricted area. A police officer or an appointed person may conduct a basic search in these circumstances. A frisk search in these circumstances can only be conducted by a police officer.

A police officer may conduct a specific search of a person who is attempting to enter, about to enter, is in, or is leaving a restricted area but only if the person is not accredited or approved under clause 14 to have access to the restricted area or the police officer reasonably suspects that the person may be in possession of a prohibited item without lawful excuse.

However, subclause (4) provides that a specific search by a police officer can not be conducted of a person who does not hold an accreditation or approval as mentioned in clauses

14 and 15 to have access to the restricted area if the person is on board a train that is in transit between Roma Street Station and South Bank Station and the train is not authorised by Queensland Rail to stop at South Brisbane Station. This exception ensures that passengers on trains that are transiting through the restricted area, without stopping at South Brisbane Station, can not be subject to a specific search unless a police officer reasonably suspects the person may be in possession of a prohibited item without lawful excuse. This allows for the rail network to continue operating with as little disruption as possible while meeting security requirements.

Clause 24 – Who may conduct a search in a declared area

Only a police officer can conduct searches in declared areas.

A basic search can be conducted by a police officer of a person who is attempting to enter, about to enter, is in, or is leaving a declared area. A frisk search can be conducted by a police officer of a person who is attempting to enter, about to enter, is in, or is leaving a declared area if the police officer reasonably suspects the person may be in possession of a prohibited item without lawful excuse, is a prohibited person or is an excluded person.

A specific search can be conducted by a police officer of a person who is attempting to enter, about to enter, is in, or is leaving a declared area if the police officer reasonably suspects the person may be in possession of a prohibited item without lawful excuse and either reasonably believes a frisk search will not locate the prohibited item or a frisk search has not located the prohibited item. A specific search can also be conducted by a police officer of a prohibited person or an excluded person who is attempting to enter, about to enter, is in or is leaving a declared area.

Clause 25 – Who may conduct a search in a motorcade area

The clause outlines who may conduct a search of a person who is attempting to enter, about to enter, is in, or is leaving a motorcade area. A police officer or an appointed person may conduct a basic search in these circumstances. A frisk search in these circumstances can only be conducted by a police officer.

A police officer may also conduct a specific search of a person who is attempting to enter, about to enter, is in, or is leaving a motorcade area but only if the police officer reasonably believes the person does not have approval to be in the motorcade area or the police officer reasonably suspects the person may be in possession of a prohibited item without lawful excuse.

Subdivision 3 – Method of conducting searches

Clause 26 – Method of conducting basic search

The clause prescribes what a police officer or appointed person may do to conduct a basic search.

Clause 27 – Method of conducting frisk search

The clause prescribes what a police officer may do to conduct a frisk search. As part of the frisk search, a police officer may touch clothing the person is wearing only if the person is the same sex as the officer. Subclause (3) provides an exception to the police officer being the same sex as a person searched where a police officer of the same sex is not immediately available and a serious threat to the safety of a person is such that an immediate search is necessary. For example, a person may be reasonably suspected of carrying a firearm.

Clause 28 – Method of conducting specific search

The clause prescribes the powers of a police officer for conducting a specific search. Subclause (2) further provides that a police officer may only conduct a specific search, requiring a person to remove clothing, other than outer clothing, if the person is the same sex as the officer. However, subclause (2) does not apply if a police officer of the same sex is not immediately available and a failure to search the person immediately may pose a serious threat to a person's safety or interfere with or unduly delay security arrangements.

Subclause (4) provides a further safeguard in relation to conducting a specific search. It provides that a specific search that requires a person to remove clothing, other than outer clothing, must be carried out where there is reasonable privacy for the person, unless a failure to search the person immediately may pose a threat to a person's safety or unduly interfere with or delay security arrangements. This subclause aims to protect the dignity of the person being searched.

Subclause (5) provides for a medical x-ray to be conducted by a radiologist or radiographer, or a police bomb technician acting under the guidance of a radiologist or radiographer, for a police officer for the purposes of subclause (1)(1). A police officer may only require a person to have a medical x-ray if the police officer reasonably suspects the person may be concealing an explosive device in the person's body.

Clause 29 – Removal of headwear

The clause applies if a person is required to remove, or a police officer intends to remove, the person's headwear, under the Act and the person is a member of a religious group and the headwear is of a type customarily worn by members of the group.

The clause provides a safeguard in recognition of the person's religious belief by requiring that the person only remove the headwear in the presence of a police officer or appointed person of the same sex and in a private place. However, the safeguard does not apply if compliance with it may pose a threat to a person's safety. An example would be where an imminent threat is apparent, for example, the person is suspected of concealing a gun or explosives under the headwear and an immediate search is necessary to seize the weapon or explosives.

Clearly, the clause does not apply to a person or group of persons, for example protestors, who are wearing headwear for the purpose of disguising their identity from police officers.

Subdivision 4 – Requirement for searching children and persons with impaired capacity

Clause 30 – Special requirements for searching

The clause applies if a person to be subject of a specific search under the Bill is a child or a person with impaired capacity who may not be able to understand the purpose of the search. As a safeguard, subclause (2) provides that the police officer must conduct the search in the presence of an independent person who can provide support for the child or person with impaired capacity.

However, the police officer may search the child or person with impaired capacity in the absence of an independent person if the police officer reasonably suspects an immediate search is necessary to protect a person's safety. For example, the person is suspected of concealing a weapon on their person and an immediate search is necessary to seize the weapon.

Division 2 – Stop and search powers

Clause 31 – Power to stop and search vehicles for restricted area or motorcade area

The clause provides for the powers of a police officer or appointed person to stop and search a vehicle for a restricted area or motorcade area. This includes powers to detain the vehicle and the person in charge of the vehicle, move or require the person in charge of the vehicle to move the vehicle, search anything in or on the vehicle, open or require the person in charge of the vehicle to open a part of the vehicle or any thing in the vehicle and undertake an electronic inspection or search of the vehicle. It also includes a power to place a seal, lock or other similar device on the vehicle to prevent a person opening a section of the vehicle or indicate that a person has opened a section of the vehicle.

An example is placing a clearly identifiable seal over a vehicle's rear luggage compartment to indicate that section of the vehicle has been searched. A further example is a truck delivering food to a meeting venue in a restricted area. The truck will be searched outside the security area and a lock can be placed on the rear door of the truck. This lock can then be removed from the truck by a police officer within the restricted area. This will ensure nothing is removed from, or loaded onto, the truck between the search point and the unloading point, especially if the vehicle is not in sight for the entire time.

Clause 32 - Power to stop and search vehicles for declared area

The clause provides for the powers of a police officer to search a vehicle that is attempting to enter, about to enter or is in a declared area if the police officer reasonably suspects the vehicle may contain a prohibited item. Subclause (2) outlines what a police officer may do for the purpose of the search.

Division 3 – Searches of premises

Clause 33 – Power to enter and search premises in a restricted area without a warrant

A police officer may enter and search any premises in a restricted area. The police officer must use only the amount of force that is reasonably necessary in the circumstances.

However, a police officer is only authorised to enter a part of premises being used for residential purposes with the consent of the occupier of the part, under the authority of a search warrant or written law or if the police officer reasonably suspects that an offence may be committed within or from the premises that will endanger the safety of a person.

For example, a police officer can enter a restaurant in a restricted area and walk an explosive detection dog through the restaurant. However, if the restaurant had an adjoining residence upstairs, the police officer could only search the residence with the consent of the occupier of the residence, under the authority of a search warrant or written law or if the police officer reasonably suspected that an offence may be committed within or from the residence that will endanger the safety of a person.

Division 4 – Use of detection dogs

Clause 34 – Use of detection dogs

The clause provides that a police officer or an appointed person may use a dog trained for a weapons or explosives detection purpose to detect weapons or explosives in relation to a security area. The dog can be used in relation to a person, a building or other structure, a place, a vehicle and any other thing. The police officer or appointed person may take the detection dog into any place or onto any premises. For example, a police officer and detection dog may enter the underground car park of a building, whether it is commercial or residential, adjacent to a G20 accommodation venue and walk through that area to enable the dog to detect explosives that may have been placed in the car park.

However, the detection dog cannot be used in relation to a part of premises being used for residential purposes, other than in circumstances mentioned in clause 33(3)(a), (b) or (c). Residential is to be taken to mean that part of the premises in which a person resides, for example, a bedroom, kitchen or lounge room. A car park is not part of premises being used for residential purposes.

The clause applies despite any other Act to the contrary.

Also, sections 10.21B and 10.21C of the *Police Service Administration Act 1990* apply to a detection dog as if it were a police dog. For example, the provisions will apply to a dog owned and controlled by the Australian Defence Force.

Clause 35 – Protection from liability relating to use of detection dog

The clause provides a protection from liability for a police officer or appointed person using a detection dog by adapting section 38 of the *Police Powers and Responsibilities Act 2000* in relation to a detection dog.

Division 5 – Power to require reason for entry and personal details

Clause 36 – Power to require reason for entry to, or presence in, particular security area

The clause outlines powers to stop a person who is seeking to enter a security area and require, as a condition of entry, that the person state the person's reason for wanting to enter or who is in a security area and require the person to state the person's reason for being in the area. A police officer or appointed person can exercise this power in relation to a restricted area or motorcade area. Only a police officer can exercise this power in relation to a declared area.

If a police officer or appointed person makes a requirement of a person under this clause, the police officer or appointed person must give the person a warning that failure to provide a lawful reason for wanting to enter or for being in a security area may result in the person being refused entry to the area or being removed from the area.

Clause 37 – Power to require personal details at a security area

A police officer has the power to stop a person who is seeking to enter a security area and require, as a condition of entry, that the person disclose the person's personal details and to stop a person who is in a security area and require that the person disclose the person's personal details.

An appointed person has the power to stop a person who is seeking to enter a restricted area or a motorcade area and require, as a condition of entry, that the person disclose the person's personal details and to stop a person who is in a restricted area or a motorcade area and require that the person disclose the person's personal details.

A police officer and an appointed person also have the power to stop a person who is seeking to enter, or is in, a restricted area or a motorcade area and require the person to produce for inspection any identity card held by the person under clause 90 or any accreditation or approval mentioned in sections 14 and 15 held by the person.

Subclause (3) provides an additional power of a police officer and appointed person when making a requirement under subclause (1)(a) or (b) in relation to a security area. The police officer or appointed person when making the requirement may also require the person to remove the person's headwear and if the person refuses to do so, remove any headwear the person is wearing. Clause 29 may apply in this case.

A person stopped under this clause can be detained for as long as is reasonably necessary for the purposes of the clause as provided in subclause (4).

Clause 38 – Power to require personal details for offence etc.

A police officer has the power to stop a person and require the person to disclose the person's personal details if a police officer reasonably suspects the person has committed, or is about to commit, an offence that is intended to, or may, disrupt a G20 event or is posing or may pose a serious threat to the security of a G20 event. This power can therefore be exercised by a police officer outside a security area. The person can be detained for as long as is reasonably necessary for the purposes of the clause.

Subclause (3) provides a safeguard to the use of the power under this clause. It provides that a police officer who gives a requirement to a person to disclose the person's personal details must, if reasonably practicable, warn the person that failure to comply with the requirement is

an offence for which the person may be arrested. It further provides that the police officer may also require the person to remove the person's headwear and if the person refuses to do so, remove any headwear the person is wearing. Clause 29 may also apply in this case.

Division 6 – Road closures etc

Clause 39 – Power to close a road, easement, access or waterway

A power is provided for a senior police officer to close, or close part of, a road, an access or easement or a waterway to use by a person or vehicle. The power can only be used for a G20 purpose, which under subclause (2) includes closing part or all of a road that intersects with a motorcade route, if leaving the road open is likely to cause considerable delay to traffic using the road. For example, entry to the Clem 7 tunnel may be closed to traffic for a period if it intersects a motorcade route being used for an extended period by G20 delegates. In this instance not closing the Clem 7 tunnel would result in motorists having to remain parked within the tunnel for a lengthy period of time. Alternate routes of travel will be open to motorists.

Clause 40 – Check point, cordon and road impeder

A power is provided for a senior police officer to cause one or more check points to be established, one or more cordons to be placed around an area or one or more road impeder to be placed on a road, or waterway restrictors to be placed on a waterway, leading in or out of, or that is located in, a security area. A cordon may consist of purpose manufactured tape placed on bollards around the perimeter of a building. For example, it may be plastic tape with the words 'Restricted Area – Keep Out' printed on it. The power can only be used for a purpose as outlined in subclause (3). A police officer may use the assistance the police officer considers necessary in exercising the power. Examples are provided in subclause (5).

Subclause (2) further provides that road impeder placed in an intended motorcade area may remain in place for the rest of the G20 period. This would apply to large barriers that require significant resources to move, for example, heavy water-filled barriers.

Subclause (4) clarifies that a check point, cordon or road impeder may consist of a barrier or other device designed to prevent or limit the passage of persons, vehicles or vessels or to slow or stop the entry of persons, vehicles or vessels to an area.

Division 7 – Powers to prevent entry or remove

Clause 41 – Power to prevent person or vehicle entering, or remove a person from, restricted area or motorcade area

The clause provides the power of a police officer or an appointed person to prevent a person entering, or remove a person from, a restricted area or a motorcade area if the police officer or appointed person reasonably suspects the person either alone or with others intends to, or may, disrupt a G20 event or the person is not accredited or approved to have access to the area. A police officer or appointed person may also prevent a vehicle entering a restricted area or motorcade area if no person in or on the vehicle holds a Commonwealth accreditation or access approval authorising access to the area or if the officer or appointed person is

reasonably satisfied that preventing the vehicle from entering the area is necessary for the safety and security of the G20 meeting.

Clause 42 – Power to prevent person or vehicle entering, or remove a person from, declared area

The clause provides the power of a police officer to prevent a person entering, or remove a person from, a declared area if the police officer reasonably suspects the person either alone or with others intends to, or may disrupt a G20 event or the person is in possession of a prohibited item without reasonable excuse.

Before exercising the power, the police officer must, if reasonably practicable, give a direction to the person not to enter, or to immediately leave, the area. The direction may be given to a person individually or to a group of people generally and may be given by amplified means.

Subclause (3) overcomes the impracticality of issuing an individual warning to each and every person in a crowd to leave a security area, especially in a dangerous or highly volatile situation. It allows for the direction to be given over an amplification system to the crowd as a whole.

Subclause (4) addresses the issue of when it may not be practicable to give a direction.

Subclause (5) further provides that a police officer may prevent a vehicle entering a declared area if a prohibited item is found on the vehicle as a result of a search under clause 32 and the officer is reasonably satisfied that preventing the vehicle from entering the area is necessary for the safety and security of the G20 meeting.

Clause 43 – Power to remove a person from a closed road

The clause provides that a police officer may remove a person who is, without lawful excuse, on a road that is closed under clause 39. The police officer may remove the person to a place away from the road. In doing so, a police officer may use reasonable force consistent with the use of force provisions of the PPRA.

Clause 44 – Power to remove obstruction object

A police officer, or a person acting under the direction of a police officer, has the power to seize and remove an obstruction object. This includes the power to use force to cut, sever, detach or break any thing securing an obstruction object. An example would be using bolt cutters to sever a chain used to secure an obstruction object across a road leading into a declared area. Under the definition of an obstruction object, this clause can apply to a thing in or outside a security area.

An obstruction object seized under this clause is forfeited to the State.

Clause 45 – Power to remove vehicle from restricted area

A police officer, or a person acting under the direction of a police officer, has the power to remove a vehicle from a restricted area if the vehicle is unlawfully in the restricted area.

Subclause (2) further provides that the relevant person associated with the vehicle is responsible for payment of fees relating to the removal of the vehicle. Relevant person is defined in the clause as meaning the person who is or was in control of the vehicle when it was parked in a restricted area or an area that becomes a restricted area.

Clause 46 – Power to remove vehicle from motorcade area

The clause provides that a police officer, or a person acting under the direction of a police officer, has the power to remove a vehicle that is in a motorcade area from the area. Subclause (2) further provides that the relevant person associated with the vehicle is responsible for payment of fees relating to the removal of the vehicle if the vehicle is parked in a motorcade area where there was adequate signage indicating that the vehicle must not be parked where it was parked. Again, relevant person is defined in the clause.

Clause 47 – Power to remove vehicle from declared area

The clause provides that a police officer, or a person acting under the direction of a police officer, has the power to remove a vehicle from a declared area. The power can only be used if the police officer reasonably suspects that the vehicle may obstruct, or pose a risk to the security of the G20 meeting.

Division 8 – Direction for security or safety

Clause 48 – Power to give a direction

The clause relates to the power of a police officer in relation to general directions. A police officer may give a person a direction that the officer considers reasonably necessary for the security of any part of the G20 meeting or a security area or for the safety of a G20 participant or a member of the public.

This power includes power to direct a person not enter an area, to leave an area or to move to a stated location within an area. The direction may be given to a person individually or to a group of people generally and may be given by amplified means.

Division 9 – Use of force by appointed persons

Clause 49 – Power to use force

Under this clause, an appointed person has the same power to use force for the purposes of his or her appointment that a police officer has under sections 614 (Power to use force – exercise of certain powers) and 615 (Power to use force against individuals) of the *Police Powers and Responsibilities Act 2000*. Under section 615 of the PPRA this does not include the use of force likely to result in grievous bodily harm or death.

Part 5 – Prohibited persons and excluded persons

Division 1 – Prohibited persons

Clause 50 – Prohibited persons list may be compiled

Clause 50 allows the commissioner to compile a prohibited persons list which is a list of persons who should not be permitted entry into any security area. The list may include identifying details and a photo of a person whose name is on the list.

A person's name may be placed on the list if the commissioner is reasonably satisfied that the person may pose a serious threat to the safety or security of persons or property in a security area, may by the person's actions opposing any part of the G20 meeting cause injury to persons or damage to property outside a security area or may disrupt any part of the G20 meeting.

Clause 51 – Notice that person's name is on prohibited persons list

This clause provides that if the commissioner places a person's name on the prohibited persons list and it is reasonably practicable for the commissioner to do so, the commissioner must cause the person to be personally served with a notice stating that the person's name is on the list, that the person must not enter any security area until the end of 17 November 2014 and that, if the person believes the person's name should not be included on the list, the person may make a written submission to the commissioner by a stated date about the inclusion.

If the person makes a written submission to the commissioner by the stated date, the commissioner must consider the written submission and make a decision to either retain the person's name on the list or to remove the person's name from the list.

The commissioner must give the person written notice of a decision mentioned in subclause (2)(b) and, if the decision is to retain the person's name on the prohibited persons list, the commissioner's reasons for the decision.

Subclause (4) confirms that despite subclause (3) and any rule of natural justice to the contrary, the commissioner need not give reasons for the commissioner's decision to retain a person's name on the prohibited person list if the commissioner is reasonably satisfied disclosure to the person of any information in relation to the decision may be against Australia's national security interests, could damage international relations between Australia and another nation, may be prohibited by a law of the Commonwealth or a State or may place the safety of an informant in jeopardy.

Clause 52 Public publication that person on prohibited persons list

In circumstances when it is not reasonably practicable to personally serve a person with a notice as mentioned in clause 51(1), the commissioner may publicly publish a notice stating the person is a prohibited person and the person's photo and description. Public publication is further explained in subclause (3). It is not generally intended that a prohibited person's details will be publically released. The clause recognises that while a prohibited person may pose a threat to a G20 event, the person may not have been convicted of a G20 related offence.

As such subclause (4) confirms that the prohibited persons list is not required to be made publicly available by the commissioner. Nevertheless, it is to be noted that subclause (4)

would not preclude an application under the RTI Act. However, it is highly unlikely that such a list would be released, for example to the media, if an RTI application was made, as the information would consist of an individual's personal information, disclosure of which would be contrary to the public interest. Subclause (5) further allows that the prohibited persons list may be circulated by the commissioner to a police officer, an appointed person, any person or agency providing security for any part of the G20 meeting including providing security for a G20 participant, the Commonwealth G20 Taskforce and the department of the Commonwealth in which the *Migration Act 1958* is administered.

Subclause (6) further provides that if under clause 51 the commissioner decides to remove a person's name from the prohibited person's list, the commissioner must give written notice to any person or agency to whom that list was circulated and if a notice was publicly published, publicly publish a notice about the removal.

Clause 53 – When a person becomes a prohibited person

Clause 53 outlines when a person becomes a prohibited person. A person becomes a prohibited person if the person is personally served with a notice as mentioned in clause 51(1) or the commissioner publicly publishes a notice as mentioned in clause 52(2) in relation to the person.

Clause 54 – Powers relating to prohibited persons

The clause provides for certain powers of a police officer or appointed officer in relation to prohibited persons during the G20 period.

A police officer may exercise certain powers against a prohibited person in relation to security areas. These powers include preventing a prohibited person from entering a security area and removing a prohibited person, and anything in the person's possession, from a security area to another place within that security area, another security area or a place outside a security area.

An appointed person may exercise certain powers against a prohibited person in relation to a restricted area or a motorcade area. These powers include preventing a prohibited person from entering a restricted area or a motorcade area and removing a prohibited person from a restricted area or a motorcade area to a place outside a restricted area or a motorcade area.

Subclause (3) confirms that any action taken under this clause does not prevent the taking of proceedings for an offence.

Division 2 – Excluded persons

Clause 55 – Exclusion of persons from security area

The clause provides that if a police officer is reasonably satisfied a person is any of the things listed in subclause (1), the officer may by notice under clause 56 exclude certain persons from all security areas, a stated security area or a stated part of a security area until the end of 17 November 2014.

The clause provides a number of safeguards that the officer must comply with prior to issuing an exclusion notice, including, where relevant, asking the person whether the person has a lawful excuse.

Clause 56 – Police officer may notify exclusion

A police officer may notify a person in writing, or orally if it is not practicable to notify the person in writing, that the person is excluded from all security areas, a stated security area or a stated part of a security area until the end of 17 November 2014, that if the officer is reasonably satisfied the person normally resides in the security area or part of the security area to which the exclusion notice applies and it is appropriate to do so, about any conditions that apply to the exclusion is subject and the ground for the exclusion.

Subclause (2) states that the notice takes effect when it is given to the person and continues until the end of 17 November 2014.

Clause 57 – Identification of excluded person

Clause 57 provides a power for a police officer, who excludes a person from a security area under clause 56, to take a photo of the person and detain the person for a reasonable time for that purpose. A photo taken under subclause (1) may be circulated to a police officer, an appointed person, the department of the Commonwealth in which the *Migration Act 1958* is administered or a person or agency involved in providing security or intelligence for any part of the G20 meeting.

Clause 58 – Powers relating to excluded person

The clause provides for certain powers of a police officer or appointed officer in relation to excluded persons.

A police officer may exercise certain powers against an excluded person in relation to a security area or part of the security area the subject of the exclusion notice given to the person. These powers include, if a police officer reasonably suspects a person is an excluded person, requiring the person to disclose his or her personal details or provide proof of his or her personal details. If a requirement is made of an excluded person, by a police officer, to disclose the person's personal details or provide proof of the person's personal details, the police officer may require the person to remove any headwear the person is wearing and if the person refuses to do so, remove the headwear. Clause 29 may apply in this case.

The police officer's powers in this clause also include preventing the excluded person from entering or attempting to enter the security area or part and removing an excluded person from a part of the security area to another place within that or another security area or a place outside the security area.

An appointed person may exercise certain powers against an excluded person in relation to a restricted area or a motorcade area. These powers include preventing an excluded person from entering or attempting to enter a restricted area or a motorcade area and removing an excluded person from a restricted area or a motorcade area to a place outside the restricted area or motorcade area.

Subclause (3) confirms that any action taken under this clause does not prevent the taking of proceedings against the person for an offence.

Part 8 – Prohibited items and related provisions

Clause 59 – Prohibited item

Prohibited items are those items mentioned in schedule 6.

Clause 60 – Power to seize or require surrender of prohibited item

Subclause (1) provides for the power of a police officer to seize a prohibited item if the officer reasonably suspects the prohibited item is left unattended in a security area or a person has possession of the prohibited item in a security area without lawful excuse. Subclause (2) further provides that an appointed person may seize and, as soon as reasonably practicable, must deliver to a police officer, a prohibited item if the appointed person reasonably suspects the prohibited item is left unattended in a restricted area or motorcade area or a person in, attempting to enter or about to enter a restricted area or motorcade area has possession of the prohibited item without lawful excuse.

Subclause (3) further provides that, at any time during the G20 period, a police officer may require a person to surrender possession of a prohibited item until the end of 17 November 2014 if the police officer reasonably suspects the person could use the item to endanger the safety of a person associated with any part of the G20 meeting or disrupt any part of the G20 meeting. If a person surrenders a prohibited item as required under subclause (3), the officer must give the person a receipt. If a person fails to surrender possession of the prohibited item when required to do so by a police officer under subclause (3), the officer may seize the prohibited item.

Clause 61 – Return or forfeiture of prohibited item

A prohibited item surrendered by a person as mentioned in clause 60(4) must be returned to the person as soon as reasonably practicable after the end of 17 November 2014 unless it is unlawful for the person to possess the item.

Clause 61 further provides that a prohibited item seized under clause 60(1), (2) or (5) and a prohibited item that can not be returned to a person under subclause (1) is forfeited to the State.

Clause 62 – Exemption for possession of prohibited items by police officer or appointed person

An exemption is provided for a police officer to possess a prohibited item in a security area in the course of the officer's duty as a police officer. For example, a police officer may be required to wear a police-issued firearm in a security area whilst on duty.

The commissioner may also give written approval for an appointed person or class of appointed persons to possess prohibited items while on duty for the purpose of performing duties at any part of the G20 meeting.

Part 9 - Offences

Clause 63 – Prohibited item offences

Clause 63 creates a number of offences in relation to prohibited items. It is an offence to, without lawful excuse, possess a prohibited item in a security area or attempt to take a prohibited item into a security area. The maximum penalty for these offences is 50 penalty units.

It is also an offence to, without lawful excuse, use a prohibited item in a way that it, something contained in it or on it, or something produced by it, may enter a security area. The maximum penalty for this offence is 100 penalty units.

The onus of proving a lawful excuse is on the person claiming the lawful excuse.

Clause 64 – Climbing onto, under, over or around barrier, etc.

The clause applies to a barrier, cordon, road impeder or waterway restrictor placed for a G20 purpose (a place thing). The clause creates offences for climbing onto, under, over or around the placed thing, moving or removing the placed thing or attempting to do one of those acts. The maximum penalty for these offences is 50 penalty units.

Clause 65 – Application of s 64 limited

The clause states that clause 64 does not apply to a police officer acting in the course of his or her duties as a police officer, an appointed person acting in the course of his or her appointment as an appointed person or a person acting under the direction of a police officer or an appointed person.

Clause 66 – Entering or climbing building or structure in view of security area with intent to cause injury, etc.

The clause prohibits a person from entering or climbing a building or structure in view of a security area with intent to cause injury or alarm to a person associated with any part of the G20 meeting, to damage a property associated with any part of the G20 meeting or to impede or obstruct any part of the G20 meeting. The maximum penalty for this offence is 100 penalty units.

Clause 67 – Lighting a fire in a security area

The clause prohibits a person from lighting a fire in a security area without lawful excuse. The onus of proving the lawful excuse is on the person. An example is provided in the clause as to what might amount to a lawful excuse. The maximum penalty for this offence is 100 penalty units.

Clause 68 – Failing to comply with requirement to disclose personal details

The clause creates an offence for a person failing to comply with a requirement to disclose the person's personal details under clause 37(1)(b) or (2)(b) or 38(1). The maximum penalty for the offence is 10 penalty units. An offence is not committed under subclause (1) merely because the person fails to produce identification if the person has a lawful excuse for the failure. Identification is required to be an official document such as a driver licence or a passport or another reliable form of identification. A document manufactured by the person purporting to show the person's identification is not a reliable form of identification.

Clause 69 – Failing to comply with direction

An offence is created for a person who, without lawful excuse, fails to comply with a direction given by a police officer under the proposed Act. The maximum penalty for the offence is 50 penalty units.

Subclause (2) further provides that in a proceeding for an offence against this clause, a direction given to a person or a group of persons is taken to have been heard and understood by the person or group, unless the contrary is proved.

Clause 70 – Unauthorised entry to restricted area

An offence is created for a person entering, attempting to enter, or remaining in a restricted area unless the person has special justification to do so. The maximum penalty for the offence is 50 penalty units.

Clause 71 – Unauthorised entry to motorcade area

An offence is created for a person entering, attempting to enter or remaining in a motorcade area unless the person has special justification to do so. The maximum penalty for the offence is 50 penalty units.

Clause 72 – Prohibited person not to enter security area

The clause creates an offence for a prohibited person entering or attempting to enter a security area. The maximum penalty for the offence is 100 penalty units.

Clause 73 – Unauthorised entry to security area by excluded person

The clause provides that an excluded person must not enter, or attempt to enter, a security area or part of a security area from which the person is excluded under the exclusion notice given to the person. The maximum penalty is 100 penalty units.

Clause 74 – Interfering with any part of the G20 meeting

Clause 74 creates an offence for a person, at any site where any part of the G20 meeting is held or takes place, disrupting, interfering with, delaying or obstructing the conduct of any part of the G20 meeting or an activity associated with the G20 meeting, or interfering with the reasonable enjoyment of any part of the G20 meeting. The maximum penalty is 50 penalty units.

Clause 75 – Assaulting or obstructing appointed person

The clause prohibits a person from assaulting or obstructing an appointed person exercising a power or performing a function under the proposed Act. The maximum penalty for the offence is 40 penalty units.

Part 8 – Exemptions from particular offence provisions

Clause 76 – Application of Transport Operations (Road Use Management) Act 1995

The clause provides that provisions of the *Transport Operations (Road Use Management) Act 1995* about offences, other than sections 79 (Vehicle offences involving liquor or other drugs) and 80 (Breath and saliva tests, and analysis and laboratory tests), do not apply to the driver of a vehicle that is part of a motorcade under escort by a police officer. For example, the driver of a vehicle that is part of a motorcade may be required to disobey a red traffic control signal to avoid the motorcade stopping.

Subclause (2) further provides that the term motorcade in this clause includes a vehicle being driven by a police officer escorting the motorcade. For example, a motorcycle police officer leading other vehicles in the motorcade is taken to be part of the motorcade.

Clause 77 – Power to give emergency direction to disobey traffic provision

The clause provides that, for a G20 purpose, a police officer may give a direction in an emergency to a relevant person to disobey a traffic provision.

Subclause (2) clarifies that a person to whom the direction is given may only disobey the traffic provision in the way stated in the direction.

For this clause, a relevant person means an individual employed by, hired by, or otherwise engaged by the State. Further, for this clause, a traffic provision means a provision of the *Transport Operations (Road Use Management) Act 1995*, other than section 79 (Vehicle offences involving liquor or other drugs) or section 80 (Breath and saliva tests, and analysis and laboratory tests).

Part 9 – Arrest and custody powers and bail

Division 1 – Arrest and custody powers

Clause 78 – Arrest without warrant

A police officer has the power to arrest a person without warrant if the police officer reasonably suspects the person has committed or is committing an offence against the proposed Act. This clause does not limit the powers of a police officer under the *Police Powers and Responsibilities Act 2000* to arrest a person without warrant, including, for example, under section 365 (Arrest without warrant) of that Act.

Clause 79 – Detention of person arrested

A police officer has a duty to ensure a person arrested for an offence against the proposed Act is taken to a processing facility. However, this duty does not apply if, at the time the person is arrested for an offence against the proposed Act, the person is arrested for an offence against another Act.

Subclause (2) provides that, at the processing facility, the person may be held in custody for the time reasonably necessary to establish the person's identity (including the taking of identifying particulars such as fingerprints) and either charge the person and decide whether bail is to be granted to the person, release the person without charge or give the person an exclusion notice.

Clause 80 – Dealing with person arrested

A custody police officer has a duty, for a person held in custody under clause 79(2), to release the person without charge, charge the person with an offence and/or give the person an exclusion notice. It follows that releasing a person without charge after serving an exclusion notice on the person is a lawful act on the part of a police officer which does not oblige the police officer to take the person before a court.

Clause 81 – Protection of person released without charge

The clause provides that a person who, under section 80(1)(a), is released without charge in relation to the offence for which the person was arrested, can not be further proceeded against for the offence, whether or not an exclusion notice was given to the person.

Division 2 - Bail

Clause 82 – Presumption against bail

Clause 82 applies to a certain offences alleged to have been committed in a security area or at any G20 meeting. These offences are those that involve the assault of a police officer, an appointed person or a G20 participant, throwing, propelling or discharging a missile or a substance at a police officer, appointed person or G20 participant, damage or destruction to property if the offence relates to any part of the G20 meeting, or disrupting or attempting to disrupt any part of the G20 meeting.

Subclause 82(2) provides for a presumption against bail. It provides that, despite sections 7 and 9 of the *Bail Act 1980*, the court or police officer authorised to grant bail must refuse to grant bail unless the defendant shows cause why the defendant's detention in custody is not justified. The presumption against bail under subclause (2) applies only during the G20 period and the defendant may apply or reapply for bail when the presumption against bail ends.

Subclause (3) confirms that all other provisions of the *Bail Act 1980* apply to the offences referred to in subclause (1).

Subclause (4) provides that in addition to the conditions for the release of the defendant on bail imposed under section 11 of the *Bail Act 1980*, the defendant's release on bail is to also include a condition that the defendant not enter, attempt to enter or approach any security

area and not commit another offence against the Act. This condition is taken to be imposed under section 11 of the *Bail Act 1980*.

Part 10 - Compensation

Clause 83 – Compensation for person normally residing in restricted area

The clause applies if a person (other than an excluded person) normally resides in premises that are within a restricted area and the person does not hold a Commonwealth accreditation or access approval authorising access to the restricted area. The State must pay to the person, the cost of reasonable accommodation outside the restricted area for the person for the period he or she may not enter the restricted area. This would apply to a person who permanently resides in a hotel room located in a restricted area and who was required by the provisions of this Bill to vacate the room for the G20 period. The clause does not apply merely because a hotel is unable to provide a room to a person because all rooms in the hotel are booked.

Subclause (3) clarifies that if the person normally resides within a restricted area with other persons (including, for example, as a family or in a share house), the cost of reasonable accommodation is for accommodation for all the persons.

Clause 84 – Compensation for prohibited person normally residing in security area

The clause applies if a prohibited person normally resides in a security area. The clause outlines that the State must pay to the prohibited person the cost of reasonable accommodation outside the security area for the prohibited person for the period he or she may not enter the security area. If the prohibited person normally resides within a security area with a child or another person and the prohibited person is wholly responsible for looking after the needs of the child or other person, the cost of reasonable accommodation is for the prohibited person and that child or other person.

The clause does not entitle a prohibited person to claim compensation for loss of business income.

Part 11 – Disclosure of information

Clause 85 – Prohibition on unauthorised disclosure of restricted information

Clause 85 provides a prohibition on the unauthorised disclosure of restricted information. Restricted information is information relating to all or any part of the G20 meeting as defined in subclause (2). Subclause (1) states that a person must not disclose restricted information, that the person has knowledge of because of the person's employment, without lawful authority. The maximum penalty for the offence is 100 penalty units.

Clause 86 – Disclosure of information in possession of police service

The clause provides that, despite any other Act, the commissioner may authorise, in writing, the disclosure of information in the possession of the police service to a prescribed agency or police service for a purpose relating to the safety and security of the G20 meeting. A prescribed agency or police service means an agency of the State, the Commonwealth G20

Taskforce, an agency of the Commonwealth, another State or a foreign government and the police service or police force of the Commonwealth, another State or a foreign government. For example, an agency of the Commonwealth may be the Australian Security Intelligence Organisation and an agency of a foreign government may be the United States Secret Service charged with protecting the safety of the President.

Part 12 – General provisions about non-State police officers and appointed persons

Division 1 – Non-State police officers

Clause 87 – Authorisation of non-State police officers

The clause allows the mechanism for non-State police officers to perform duties in Queensland during the G20 meeting. Non-State police officers are defined in schedule 7 of the Bill to mean a member of the Australian Federal Police and a sworn member of a police service or police force of another State or New Zealand.

The commissioner may authorise a non-State police officer to exercise the powers of a police officer under the proposed Act or another Act. The authorisation must name the non-State police officer and may be limited to stated powers and to a stated time and may be given on conditions. The authorisation may be given orally or in writing, but if given orally, must be put in writing as soon as reasonably practicable. A failure to put the authorisation in writing does not invalidate the authorisation or anything done under the authorisation. Whilst the authorisation is in force, the non-State police officer may exercise the powers only in accordance with the authorisation and subject to directions of the commissioner or another police officer.

If a police officer is authorised to exercise the powers under an Act, the Act applies to the non-State police officer as if the officer were a police officer. The provisions of the *Police Service Administration Act 1990* relating to special constables, other than section 5.16(2)(c), apply to a non-State police officer as if the officer were a special constable within the meaning of that Act.

The authorisation can be revoked by the commissioner as soon as the commissioner is reasonably satisfied the non-State police officer's help is no longer needed. The revocation may be made orally or in writing but, if made orally, must be put in writing as soon as reasonably practicable. A failure to put the revocation in writing does not invalidate the revocation. Otherwise, authorisations cease to have effect at the end of the G20 period.

Clause 88 – Production of identity card

If a non-State police officer is required to produce the officer's identity card under section 637 (Supplying police officer's details) of the *Police Powers and Responsibilities Act 2000*, it is sufficient compliance with that section if the officer produces the identity card issued to the officer by the officer's police service or police force.

Division 2 – Appointed persons

Clause 89 - Appointment

A person, other than a police officer, may be appointed by the commissioner to be an appointed person for the purposes of the Bill. A person can only be appointed to be an appointed person if the commissioner is reasonably satisfied the person has satisfactorily completed a course of training recognised by the commissioner or has the necessary expertise or experience to be an appointed person. The appointment is to be in writing.

The appointment must state the powers the appointed person may exercise under the Bill and when and where they may be exercised. The appointment must also state the dates during which the appointment is in force and may limit the powers of the appointed person by stating conditions of the appointment.

Subclause (4) clarifies that a power conferred on an appointed person by the Bill applies only to the extent the appointed person may exercise the power under subclause (3). An appointment ceases to have effect at the end of the G20 period, unless the appointment states it ends earlier or is revoked on an earlier date.

Clause 90 – Identity card

The clause relates to identity cards for appointed persons. The commissioner must give each appointed person an identity card. Subclause (2) outlines what must be contained in and stated on the identity card.

Clause 91 – Production or display of identity card

Clause 91 requires an appointed person, in exercising a power in relation to a person, to either produce, if reasonably practicable, the appointed person's identity card for the person's inspection before exercising the power or have the identity card displayed so it is clearly visible to the person when exercising the power.

Clause 92 – Return of identity card

The clause requires a person who ceases to be an appointed person to return the person's identity card to the commissioner as soon as practicable, but within 2 days, after the person ceases to be an appointed person, unless the person has a reasonable excuse. The maximum penalty is 10 penalty units.

Clause 93 – Misuse of position as appointed person or of identity card

The clause prohibits an appointed person misusing his or her position as an appointed person or his or her identity card. The maximum penalty is 100 penalty units.

Part 13 - Miscellaneous

Clause 94 – Special justification

Clause 94 provides circumstances when a person has special justification to be in a restricted area or a motorcade area. The onus of proving special justification is on the person claiming it.

Clause 95 - Evidence

The clause is an evidentiary provision that states that, in proceedings for an offence against an Act, certain statements in a charge are sufficient evidence of the fact stated, unless the contrary is proven. The clause further provides that a document purporting to be signed by a delegate of the commissioner is proof of the delegation unless the contrary is proved.

Clause 96 – Registration plate identification

The clause relates to the use of an electronic device designed to recognise the registration plate of a vehicle and communicate details about the vehicle to the operator of the device. A police officer of at least the rank of assistant commissioner may, for a G20 purpose, order that the device may be operated in a stated area.

Clause 97 - Delegation

The commissioner may delegate the commissioner's functions under clause 12(2) or 13(1) to a deputy commissioner. The commissioner may also delegate the commissioner's functions under clause 62(2), 86(1), 87(1), 87(9), 89(1) or 90(1) to a police officer of at least the rank of assistant commissioner. For the purposes of this section, functions includes powers.

Clause 98 – Review of Act

The clause provides for the conduct of a review of the operation and effectiveness of the proposed Act by the commissioner, including reporting the outcome of the review to the Minister and the tabling of the report by the Minister in the Legislative Assembly.

However, the clause does not apply if the State Government calls any other review and the terms of reference of the other review include review of the operation and effectiveness of the Act.

Clause 99 – Amendment of this Act

This is a machinery clause to remove reference to the Acts being amended by this Bill from the long title of the Bill at the time the Act is passed and receives assent.

Clause 99 – Regulation-making power

The Governor in Council has a regulation-making power under the Bill.

Part 14 – Expiry and provision if G20 meeting cancelled

Clause 101 – Expiry

This clause provides that the proposed Act, other than the continuing provisions, is to expire on 17 November 2014. The continuing provisions expire on 17 November 2015. The clause is subject to clause 102. The continuing provisions are outlined in subclause (4).

Clause 102 – Regulation may provide that provisions do not operate if G20 meeting is cancelled

The purpose of clause 102 is to make provision in relation to the Bill if the holding of the G20 meeting is cancelled. It provides that a regulation may declare that holding the G20 meeting is cancelled on and after a date stated in the regulation. If a regulation declares the G20 meeting is cancelled, the provisions that would have otherwise expired on 17 November 2014 expire on the date stated in the regulation. Subclause (3) does not affect anything done or suffered under this Act before the date stated in the regulation.

Part 15 – Amendment of other Acts

Division 1 – Amendment of Holidays Act 1983

Clause 103 – Act amended

Clause 103 states that this division amends the *Holidays Act 1983*.

Clause 104 – Insertion of new s 12

The clause inserts new section 12 ‘Particular public holiday in 2014’ in the *Holidays Act 1983*. The new section states that a public holiday is to be observed on Friday 14 November 2014 in the Brisbane area for the G20 leader’s summit. The section goes on to clarify that this public holiday is to be recognised as a public holiday in relation to any public holiday entitlements in industrial instruments (for example, awards or agreements) under the *Industrial Relations Act 1999*.

Division 2 – Amendment of Industrial Relations Act 1999

Clause 105 – Act amended

Clause 105 provides that this division amends the *Industrial Relations Act 1999*.

Clause 106 – Amendment of sch 5 (Dictionary)

The clause amends the schedule 5 definition of public holiday in the *Industrial Relations Act 1999* to include the public holiday appointed under new section 12 of the *Holidays Act 1983* for Friday 14 November 2014.

Division 3 – Amendment of Right to Information Act 2009

Clause 107 – Act amended

Clause 107 provides that this division amends the *Right to Information Act 2009*.

Clause 108 – Amendment of sch 3 (Exempt information)

The clause amends section 12(1) of schedule 3 to include reference to the clause 85 of this Bill.

Division 4 – Amendment of Trading (Allowable Hours) Act 1990

Clause 109 – Act amended

Clause 109 provides that this division amends the *Trading (Allowable Hours) Act 1990*.

Clause 110 – Insertion of new pt 5B

The clause inserts a new pt 5B. The actual allowable trading hours are mandated by a number of Orders made by the Queensland Industrial Relations Commission (QIRC) within its jurisdiction under section 21 of the *Trading (Allowable Hours) Act 1990*. The amendment overrides the Orders in so far as they relate to public holiday trading hours on Friday 14 November 2014 in the Brisbane area by a declaration in the principal legislation.

Schedule 1 - Application of Act to declared areas and restricted areas

Part 1 – Declared areas and restricted areas in Cairns

The Part provides dates for the operation of the Cairns areas.

Part 2 – Declared areas and restricted areas in Brisbane

The Part provides dates for the operation of the Brisbane areas.

Schedule 2 – Core declared area in Cairns

Schedule 2 provides a map depicting the declared area at Cairns.

Schedule 3 – Core declared areas in Brisbane

Schedule 3 provides two maps depicting the core declared areas at Brisbane.

Schedule 4 - Core restricted areas in Cairns

Schedule 4 provides three maps depicting the core restricted areas at Cairns.

Schedule 5 - Core restricted areas in Brisbane

Schedule 5 provides twelve maps depicting the core restricted areas Brisbane.

Schedule 6 Prohibited items

Schedule 6 is a list of prohibited items.

Schedule 7 Dictionary

Schedule 7 is the dictionary which defines particular words used in the Bill.