

**2017**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**CRIMES (POLICE POWERS AND FIREARMS OFFENCE)**

**AMENDMENT BILL 2017**

**Amendments to be moved by the  
Attorney-General**

**SUPPLEMENTARY EXPLANATORY STATEMENT**

Presented by  
Gordon Ramsay MLA  
Attorney-General



# **CRIMES (POLICE POWERS AND FIREARMS OFFENCE)**

## **AMENDMENT BILL 2017**

### **Outline**

#### **Introduction**

This supplementary explanatory statement relates to amendments to the Crimes (Police Powers and Firearms Offence) Amendment Bill 2017 (the Bill) as presented to the Legislative Assembly.

#### **The Bill**

The purpose of the Bill is outlined in detail in the explanatory statement.

In summary, the Bill provides:

- a) a specific offence to capture the conduct of a ‘drive by shooting’ and
- b) statutory crime scene powers.

#### **Purpose of the amendments**

On 21 November 2017 the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) released Scrutiny Report 12 providing comments on the Bill. Amendments to the Bill have been prepared to address the comments made by the Committee. These amendments are technical in nature and clarify the overall operation of the crime scene powers.

ACT Policing raised a technical issue that has also been resolved by the amendments.

Finally an amendment has been made to provide a review mechanism for crime scene powers after the first 12 months of operation.

#### **Human Rights considerations**

New section 210M provides that the Minister must review the operation of crime scene powers 12 months after the first year of operation. This will ensure that the powers are fit for purpose and being used as intended.

The other amendments to the Bill are technical in nature and clarify the overall operation of the new powers. It therefore does not engage human rights. Extensive human rights analysis was provided in the explanatory statement.

## **Clause notes**

### **Amendment 1**

#### **Clause 6**

#### **Proposed new section 210D (1) (c)**

#### **Page 6, line 10**

This amendment clarifies who can consent to a crime scene being established in relation to a private premises. The amendment provides that consent must be sought in the following way:

- a) if the premises are occupied—the occupier of the premises or
- b) if the premises are not occupied—the owner of the premises.

If an occupier does not consent to a crime scene being established or is unable to be contacted the police officer cannot seek the owner’s consent. In this instance, the police officer must instead consider the criteria at section 210D (2) (b) (ii) of the Bill.

### **Amendment 2**

#### **Clause 6**

#### **Proposed new section 210D (2) (b) (ii)**

#### **Page 6, line 17**

This is a technical amendment to reflect the changes made at amendment 1.

### **Amendment 3**

#### **Clause 6**

#### **Proposed new section 210G (2)**

#### **Page 8, line 11**

This amendment omits the words “at or in relation to the place” from new section 210G (2).

The words are superfluous and may cause confusion and as such have been omitted from the Bill. The subclauses to section 210G clearly provide where a power may be exercised.

### **Amendment 4**

#### **Clause 6**

#### **Proposed new section 210H**

#### **Page 9, line 23**

This amendment omits the words “for an offence” from new section 210H.

This is a technical amendment to the language used in the Bill.

**Amendment 5****Clause 6****Proposed new section 210H (1) (d)****Page 10, line 4**

This amendment substitutes the current words at new section 210H (1) (d).

Currently the Bill provides that crime scene powers cease when a warrant to search the place in relation to the offence is issued. ACT Policing recommended that this is amended to provide that crime scene powers cease when the warrant to search the place in relation to an offence is executed. This is a technical amendment to the language used in the Bill and more appropriately reflects police procedure in relation to a warrant.

**Amendment 6****Proposed new section 210H (1) (e)****Page 10, line 5**

This amendment omits the words “in relation to the offence” from new section 210H (1) (e).

This is a technical amendment to the language used in the Bill

**Amendment 7****Proposed new section 210m (1)(e)****Page 11, line 27**

This amendment provides that a review of the use of the crime scene powers must take place after their first year of operation. This will ensure that the powers are fit for purpose and being used as intended.

A report of the review must be tabled within six months after the review is started.

## **Relationship between current search powers provided under the *Crimes Act 1900* and new crime scene powers**

Scrutiny Report 12 requested clarification in relation to two aspects of the Bill, the:

- relationship between powers to stop, search and detain a conveyance at section 209 of the Crimes Act and the powers provided in the Bill; and
- relationship between the powers to search a person at section 210G (e) of the Bill and the power to search a person provided at section 207 of the Crimes Act.

The power provided at section 209 and 210 of the Crimes Act to stop, search and detain a conveyance are not sufficient for the purpose of the Bill. The Bill provides for the whole conveyance to be treated as the crime scene rather than simply containing evidence as provided for under the Crimes Act. The new powers provide for the conveyance in its entirety to be seized and moved to secure premises for forensic testing.

In relation to the search of a person it is intended that when a crime scene is established a police officer will use the search power provided by new section 210G (e) they will have already met the legal thresholds provided to use those powers when establishing the crime scene rather than having to turn their mind to the thresholds provided at section 207. Further providing the power at section 210G (e) ensures that the offence provision at section 210L of the Bill applies.

The Committee recommended that this clarification be provided in the explanatory material for the Bill.