

The Senate

Legal and Constitutional
Legislation Committee

Provisions of the Anti-terrorism
Bill (No. 2) 2004

August 2004

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- + Senator Kerry O'Brien, ALP, TAS to replace Senator Joseph Ludwig for matters relating to the Indigenous Affairs portfolio

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RECOMMENDATIONS

Recommendation 1

3.35 The Committee recommends that the Commonwealth Government review Schedule 1 of the Bill, with a view to determining whether a defence for 'reasonable excuse' should be included in proposed sections 18, 19 and 20, and report to the Parliament.

Recommendation 2

3.50 The Committee recommends that Schedule 2 of the Bill proceed.

Recommendation 3

3.116 The Committee recommends that the terms 'membership', 'associates', 'support', 'assist', 'promotes' and 'family or domestic concern' contained in Schedule 3 of the Bill be defined.

Recommendation 4

3.117 The Committee recommends that provisions relating to the presumption against bail in the Anti-Terrorism Act 2004 not apply to the proposed offence in Schedule 3.

Recommendation 5

3.118 The Committee recommends that the exemption in proposed paragraph 102.8(4)(b) of Schedule 3 of the Bill be extended to cover religious practice in places other than public places being used for religious worship.

Recommendation 6

3.119 The Committee recommends that the Commonwealth Government report to the Parliament on the types of aid contemplated by the phrase 'providing aid of a humanitarian nature' in paragraph 102.8(4)(c) of Schedule 3 of the Bill.

Recommendation 7

3.120 The Committee recommends that the exemption in proposed paragraph 102.8(4)(d) of Schedule 3 of the Bill be amended to ensure that access to legal advice required to meet the obligations and exercise the rights in broader anti-terrorism legislation is permitted.

Recommendation 8

3.121 The Committee recommends that the operation of the proposed offence in Schedule 3 of the Bill be subject to independent review after three years.

Recommendation 9

3.146 The Committee recommends that Schedule 4 of the Bill, or any other legislative or procedural arrangements relating to the transfer of prisoners which involve or impact upon the states and territories, not proceed until further consultation between the states and territories and the Commonwealth Government is pursued.

Recommendation 10

3.153 The Committee recommends that Schedule 5 of the Bill proceed.

ABBREVIATIONS

ADJR Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>
AFP	Australian Federal Police
AMCRAN	Australian Muslim Civil Rights Advocacy Network
ASIO	Australian Security Intelligence Organisation
ASIO Act	<i>Australian Security Intelligence Organisation Act 1979</i>
Castan Centre	Castan Centre for Human Rights Law
Crimes Act	<i>Crimes Act 1914</i>
Criminal Code	<i>Criminal Code Act 1995</i>
the Department	Attorney-General's Department
DFAT	Department of Foreign Affairs and Trade
HREOC	Human Rights and Equal Opportunity Commission
ICCPR	<i>International Covenant on Civil and Political Rights</i>
Passports Act	<i>Passports Act 1938</i>
PIAC	Public Interest Advocacy Centre
1951 Convention	<i>Convention Relating to the Status of Refugees</i>

