

# CHAPTER 2

## OVERVIEW OF THE BILL

2.1 This chapter briefly outlines the main provisions of the Bill.

### *Schedule 1 –*

2.2 Item 2 of Schedule 1 amends Section 9 the Classification Act to read: 'Subject to section 9A, publications, films and computer games are to be classified in accordance with the Code and the classification guidelines.'

2.3 Proposed subsection 9A(1) of the Bill requires that a publication, film or computer game that advocates the doing of a terrorist act must be classified 'Refused Classification'.

2.4 Proposed subsection 9A(2) defines 'advocates' using an adapted version of the definition in subsection 102.1(1A) of the *Criminal Code Act 1995*. Stating that a publication, film for computer game advocates the doing of a terrorist act if:

- (a) it directly or indirectly counsels or urges the doing of a terrorist act; or
- (b) it directly or indirectly provides instruction on the doing of a terrorist act; or
- (c) it directly praises the doing of a terrorist act in the circumstances where there is a risk that such praise might have the effect of leading a person (regardless of his or her age or any mental impairment (within the meaning of section 7.3 of the Criminal Code) that the person might suffer) to engage in a terrorist act.

2.5 Proposed subsection 9A(3) provides an exemption for some material that might otherwise be considered to advocate the doing of a terrorist act as follows:

A publication, film, or computer game does not advocate the doing of a terrorist act if it depicts or describes a terrorist act, but the depiction or description could reasonably be considered to be done merely as part of public discussion or debate or as entertainment or satire.

2.6 Proposed subsection 9A(4) adopts the definition of 'terrorist act' directly from subsection 100.1 (1) of the *Criminal Code Act 1995*.

2.7 In essence, the Criminal Code defines 'terrorist act' as 'an action or threat of action that is done with the intention of advancing a political, religious or ideological cause and is also done with the intention of coercing or influencing by intimidation any government, the public or a section of the public.'

2.8 Subsection 100.1(2) of the Criminal Code outlines additional criteria which must be met for a threat or action to meet the definition of 'terrorist act'. Specifically the threat or action must have the intention or effect of:

- causing serious physical harm or death;
- causing serious damage to property;
- creating a serious risk to the health or safety of the public or a section of the public; or
- interfering with an electronic system.

2.9 Subsection 100.1 (3) of the Criminal Code outlines criteria identifying what does not constitute a 'terrorist act', including:

- advocacy;
- protest;
- dissent; and
- industrial action.

2.10 To fall outside the definition of 'terrorist act', the advocacy, protest, dissent or industrial action must not be intended:

- to cause serious harm that is physical harm to a person;
- to cause a person's death;
- to endanger the life of a person, other than the person taking the action; or
- to create a serious risk to the health or safety of the public or a section of the public.