

BILLS DIGEST

**TERRORISM SUPPRESSION AMENDMENT BILL 2007
(SUPPLEMENTARY ORDER PAPERS 2007 Nos 157 and 158)**

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TERRORISM SUPPRESSION AMENDMENT BILL 2007 (SUPPLEMENTARY ORDER PAPERS 2007 Nos 157 and 158)
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Date of introduction:	21 March 2007
Portfolio:	Foreign Affairs
Select Committee:	27 September 2007
SOP No 157 released:	06 November 2007 (Rt Hon Winston Peters - Minister)
SOP No 158 released:	06 November 2007 (Keith Locke - Green Party))

PURPOSE

The aim of the Bill is to amend the Terrorism Suppression Act 2002 (the Act) to conform with New Zealand's obligations under the Charter of the United Nations and the United Nations Security Council (the Security Council) resolutions on terrorism, and to make certain provisions workable¹.

The Bill as introduced is described in [Bills Digest No 1498](#).

The Bill as reported by the Select Committee is described in [Bills Digest No 1556](#).

MAIN CHANGES PROPOSED

Supplementary Order Paper 2007 No 157 (Rt Hon Winston Peters - Minister of Foreign Affairs)

Renaming of Afghanistan Sanctions Resolutions

SOP No 157 proposes the renaming of the "Afghanistan Sanctions Resolutions" as the "Al-Qaida and the Taliban Sanctions Resolutions" (*Part 1, Clause 4, substituted Section 3 of the Act, amending new paragraph (c); Clause 5, renaming the definition of "Afghanistan Sanctions Resolutions" as "Al-Qaida and the Taliban Sanctions Resolutions"*).

Comment

This appears to be proposed for reasons of accuracy².

Al -Qaida

SOP No 157 proposes the insertion in the Bill of a new definition, that of "Al-Qaida" which means the Al-Qaida organisation. It is also proposed that a definition of "Al-

¹ Terrorism Suppression Amendment Bill, 2007 No 105-1, Explanatory note, p 1

² Terrorism Suppression Amendment Bill 2007, Supplementary Order Paper 2007 No 157, Explanatory Note, p. 3.

Qaida entity" be placed in the Bill. This would be defined as " ... for a measure that is set out, or referred to, in 1 or more Al-Qaida and the Taliban Sanctions Resolutions, and that is provided for in [the] Act, means Al-Qaida, or an entity that is not Al-Qaida but is designated, by or under those resolutions, as an entity that is ... associated with Usama bin Laden ... and ... an entity to which that measure is to be applied" (*Part 1, Clause 5, inserting new definitions of "Al-Qaida" and "Al-Qaida entity"*).

Taliban

SOP No 157 also proposes that definitions of "Taliban" and "Taliban entity" be placed in the Bill. "Taliban" would mean " ... the Afghan faction known as the Taliban, which also calls itself the Islamic Emirate of Afghanistan". "Taliban entity" would mean " ... for a measure that is set out, or referred to, in 1 or more Al-Qaida and the Taliban Sanctions Resolutions, and that is provided for in [the] Act, means an entity that ... is not Usama bin Laden, an Al-Qaida entity, or the Taliban; but ... is designated, by or under those resolutions, as an entity to which that measure is to be applied" (*Part 1, Clause 5, inserting definitions of "Taliban" and "Taliban entity"*).

Substituted definition of "United Nations listed terrorist entity"

SOP No 157 proposes to change the definition of "United Nations listed terrorist entity" from " ... a specified entity within the meaning of regulation 3(1) of the United Nations Sanctions (Afghanistan) Regulations 2001" to " ... means an entity that is ... Usama bin Laden; or ... an Al-Qaida entity; or ... the Taliban; or ... a Taliban entity" (*Part 1, Clause 5, substituted definition of "United Nations listed terrorist entity"*).

Comment

The above amendments ensure " ... that the Bill contains the substance of the definition of specified entity in, and so need no longer refer to, the United Nations Sanctions (Afghanistan) Regulations 2001 (which currently are proposed to be similarly updated and replaced)"³.

Supplementary Order Paper 2007 No 158 (Keith Locke MP - Green Party)

Definition of "terrorist act"

Section 5 of the Act defines the term "terrorist act". One aspect of the definition is that the act must be intended to cause one or more specified outcomes. One of those specified outcomes is that the "terrorist act" is intended to cause " ... serious interference with, or serious disruption to, an infrastructure facility, if likely to endanger human life".

SOP No 158 proposes that " ... disruption of an infrastructure facility ... be caught by the definition only when this disruption is with an intent to endanger human life. This is to prevent the definition also catching non-violent disruptive protest"⁴ (*Part 1, inserting New Clause 5A, amending Section 5(3)(d) of the Act*).

³ Terrorism Suppression Amendment Bill 2007, Supplementary Order Paper 2007 No 157, Explanatory Note, p. 3.

⁴ Terrorism Suppression Amendment Bill 2007, Supplementary Order Paper 2007 No 158, Explanatory Note, p. 2.

Other amendments proposed

SOP No 158 also proposes other amendments to the Bill as follows:

- the provision in the Bill creating a general offence of committing a terrorist act, punishable by up to life imprisonment would be omitted (*Part 1, Clause 6, inserting a New Section 6A of the Act, is omitted*);
- the provision of the Act which "provides that it will not be an offence to collect funds intending that they be used, or knowing that they are to be used, for the purpose of advocating democratic government or the protection of human rights"⁵ would be restored (*Part 1, Clause 7 omitted*);
- the mens rea requirement for the crime of participation in a terrorist group would be restored to one requiring knowledge of the terrorist nature of the group instead of just recklessness (*Part 1, Clause 12 omitted*);
- the provision of the Bill which would give to the Prime Minister power to renew final designations as terrorist or associated entities without reference to the High Court would be removed (*Part 1, Clause 21 omitted, restoring Sections 35 - 37 of the Act*).

Review of operation of the Act

SOP No 158 proposes that the operation of this Bill, the question as to "whether [it] should be retained or repealed" and if it is to be retained, what amendments should be made to it, must be considered by a Select Committee in the period 01 December 2008 to 01 December 2009. Those views must be reported to the House of Representatives in that period (*Part 1, substituted Clause 39, inserting New Section 70 into the Act*).

⁵ Terrorism Suppression Amendment Bill 2007, Supplementary Order Paper 2007 No 158, Explanatory Note, p. 2.