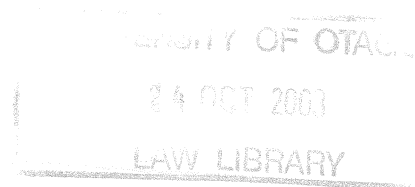


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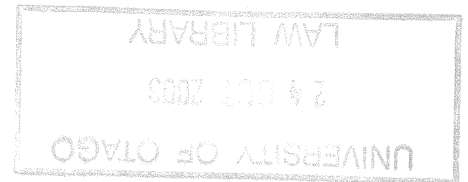
# House of Representatives

## Supplementary Order Paper

Tuesday, 21 October 2003

### Counter-Terrorism Bill

#### *Proposed amendments*



Hon Phil Goff, in Committee, to move the following amendments:

#### *Clause 7B*

To omit from proposed *new sections 312CC(1), 312CC(1)(b), 312CC(2)(a)(ii), 312CD(1)(a)(ii), 312CD(1)(b)(i), and 312CD(1)(b)(ii)* of the Crimes Act 1961 the words "a listening" (at lines 11, 15 and 16, and 31 on page 8, and lines 18, 23 and 24, and 28 on page 10, respectively), and substitute in each case the words "an interception".

#### *Clause 8*

To omit from proposed *new section 312N* of the Crimes Act 1961 the words "a listening" (at line 16 page 12), and substitute the words "an interception".

#### *Clause 11(1)*

To omit from the definition of **duly authorised military device** the word "authorised" at line 20 on page 13, and substitute the word "approved".

To omit from the definition of **Nuclear Material Convention** the words "open for signature" at lines 30 and 31 on page 13, and substitute the word "done".

#### *Clause 12*

To omit the word "heading" at line 29 on page 14, and substitute the word "headings".

To omit from proposed *new section 13B(2)* of the Terrorism Suppression Act 2002 the words "date on which this offence comes into force" at lines 22 and 23 on page 15, and substitute the words "commencement of this section".

To omit from proposed *new section 13B(3)* of the Terrorism Suppression Act 2002 the word "authorised" at line 34 on page 15, and substitute the word "approved".

To omit from proposed *new section 13C(1)(b)* of the Terrorism Suppression Act 2002 the expression "220" at line 16 on page 16, and substitute the expression "219".

To omit from the heading before proposed *new section 13D* of the Terrorism Suppression Act 2002 the word “over” (at line 35 on page 16), and substitute the word “of”.

*New clause 15A*

To insert, after *clause 15* (after line 33 on page 22), the following clause:

**15A Certificates as to States Parties under Conventions**

Section 62 of the principal Act is amended by omitting the words “Bombings Convention or, as the case requires, under the Financing Convention”, and substituting the words “Bombings Convention, the Financing Convention, the Nuclear Material Convention, or the Plastic Explosives Convention”.

*Clause 22*

To omit the word “signed” at line 22 on page 24, and substitute the word “done”.

*Clause 25*

To add after line 9 on page 25, as *subclause (2)*, the following subclause:

- (2) Section 10(3) of the Misuse of Drugs Amendment Act 1978 is consequentially amended by omitting the words “sections 12 and 13”, and substituting the expression “section 12”.

*Clause 26*

To omit from proposed *new section 26* of Misuse of Drugs Amendment Act 1978 the words “a listening” (at line 5 on page 26), and substitute the words “an interception”.

*Clause 34*

To omit proposed *new section 200C(2)(d)* of the Summary Proceedings Act 1957 (lines 17 and 18 on page 31) and substitute the following paragraph:

“(d) describe or specify the thing in or on which a tracking device may be installed.”

To omit from proposed *new section 200G(1)* of the Summary Proceedings Act 1957 the words “maintain, and remove” (at lines 8 and 9 on page 34), and substitute the words “and maintain”.

To insert in proposed *new section 200G* of the Summary Proceedings Act 1957, after *subsection (1)* (after line 13 on page 34), the following subsection:

“(1AA) The officer may remove the tracking device within 72 hours of its installation.

To insert in proposed *new section 200G(1A)* of the Summary Proceedings Act 1957, after the word “officer” at line 15 on page 35, the word “concerned”.

To insert, before *subsection (2)* of proposed *new section 200G* of the Summary Proceedings Act 1957 (before line 4 on page 32), the following subsections:

“(1B) A tracking device installed under **subsection (1)** that remains in place more than 72 hours after being installed must not be

monitored; but its remaining in place does not constitute a trespass.

“(1C) **Subsection (1B)** does not prevent the monitoring (or the maintenance or removal) of a tracking device if a tracking device warrant for it is in force.

To add to proposed *new section 200H* of the Summary Proceedings Act 1957, after line 3 on page 38 ) the following subsection:

“(3) A warrant under this section expires on the earlier of the following:  
“(a) the date 30 days after the day on which it is issued;  
“(b) a date specified when it is issued by the Judge who issues it.

To omit *paragraphs (e) and (f)* of proposed *new section 200I* of the Summary Proceedings Act 1957 (lines 21 to 26 on page 38), and substitute the following paragraphs:

“(e) the number of warrants under **section 200H** issued; and  
“(f) the number of times a Judge gave authority for a tracking device to remain in place.

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### Explanatory note

The amendments to proposed *new sections 312CC(1), 312CC(1)(b), 312CC(2), 312CD(1)(a)(ii), 312CD(1)(b)(i), 312CD(1)(b)(ii) and 312N* of the Crimes Act 1961 take account of the commencement on 1 October 2003 of the Crimes Amendment Act 2003, which renamed “listening” devices “interception” devices.

The amendments to *clauses 11, 12, and 22* are some minor verbal adjustments and the correction of an erroneous section reference:

- in *clause 11*, “approved” is substituted for “authorised”, and “done” for “open for signature”;
- in *clause 12*, “headings”, “commencement of this section”, “approved”, “219”, and “of” are substituted for “heading”, “date on which this offence comes into force”, “authorised”, “220”, and “over”;
- in *clause 22*, “done” is substituted for “signed”.

*New clause 15A* adds to section 62 of the Terrorism Suppression Act 2002 references to the 2 new conventions from which the various amendments to that Act made by the Bill arise (the Nuclear Material Convention and the Plastic Explosives Convention).

The amendment to *clause 25* removes a reference to section 13 of the Misuse of Drugs Amendment Act, which is to be repealed by the Bill.

The amendment to *clause 26* also takes account of the renaming of “listening” devices.

The remaining amendments are all to various proposed new or substituted provisions of the Summary Proceedings Act 1957 proposed to be effected by *clause 34*.

The amendment to proposed *new section 200C(2)(d)* makes clear that the thing in or on which a tracking device may be installed may be “described” in the warrant authorising its installation or “specified”. This is because it may be difficult or even impossible to specify certain items (for example one of several identical packing-cases).

The amendments to proposed *new section 200G* tidy that section up in 2 respects. First, the section at present provides that an authorised officer may install, monitor, maintain, (for up to 72 hours) and remove a tracking device without a tracking device warrant if it is not reasonably practicable to obtain a warrant in the circumstances, and the officer believes a Judge would issue a warrant if time permitted. So strictly, the officer is in the paradoxical position of being unable to remove the device if he or she comes into possession of evidence showing that in fact there were inadequate grounds for installing it in the first place. The section is amended to allow removal in these circumstances, but only within 72 hours of installation. Otherwise, a removal warrant will be necessary. Secondly, the section will now expressly provide that a tracking device that remains in place more than 72 hours after being installed must not continue to be monitored.

The amendment to proposed *new section 200H* adds a *new subsection (4)*, which provides that a warrant under the section (to remove a tracking device) expires—

- 30 days after it is issued; or
- after some shorter period specified by the Judge who issues it.

The amendment to proposed *new section 200I* is a consequence of the proposed amendments to *sections 200E and 200H*. At present, 2 of the things the Commissioner of Police and the chief executive of the New Zealand Customs state in any annual report are—

- the number of applications for a removal warrant that were refused during the year; and
- the number of removal warrants that were not executed within the month after they were issued.

It is now proposed that instead there must be stated (as well as the other things required by the section) the number of removal warrants issued and the number of times a Judge gave authority for a tracking device to remain in place.

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