THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

ANTI-TERRORISM BILL (NO. 2) 2005

CORRECTION TO THE EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General, the Hon. Philip Ruddock MP)
Corrections to Schedule 4

Schedule 4, item 24, page 27, line 39, omit “New subsection 104.12(2)”, substitute “New subsection 104.12(3)”.  

Schedule 4, item 24, page 28, line 5, omit “New subsection 104.12(3)”, substitute “New subsection 104.12(4)”.  

Schedule 4, item 24, page 58, after line 31, add “It will be necessary to ensure special care is taken to ensure that detainees under 18 years of age and those who are incapable of managing their own affairs are treated appropriately. In this context, it is important to note that detainees have not been arrested nor have they charged with a criminal offence under the preventative detention regime. It may be necessary to develop guidelines to provide for the special circumstances of young persons and persons who are incapable of managing their own affairs and who are detained”.  

“A Protocol governing the minimum conditions of detention and standards of treatment applicable to any person detained under a preventative detention order will be developed by the Australian Federal Police in consultation with the Commonwealth Ombudsman and the Inspector-General for Intelligence and Security.”

Schedule 4, item 24, page 69, (after line 36, add “The Complaints (Australian Federal Police) Act 1981 confers such powers on the Commonwealth Ombudsman in respect of the activities of the Australian Federal Police. The powers conferred by the Complaints (Australian Federal Police) Act 1981 include the power to conduct own motion investigations, obtain information and documents, examine witnesses, and enter premises. The powers conferred by the Complaints (Australian Federal Police) Act 1981 will apply to the conduct of the AFP in respect of a preventative detention order. Accordingly, it is not necessary for the Bill to confer powers on the Commonwealth Ombudsman.”

Corrections to Schedule 5

Schedule 5, after line 7, add “The AFP, in consultation with the Attorney-General’s Department and the Office of the Privacy Commissioner, will develop a set of best practice procedures and guidelines to govern the collection, use, handling, retention and disposal of personal information acquired under the amendments in Schedule 5 of the Bill.

“The AFP will ensure that all police who exercise the new stop, question, detain, search and seize powers under Schedule 5 of the Bill undergo comprehensive training relating to the interaction of those powers with relevant obligations, such as those under anti-discrimination legislation.

“The amendments contained in Schedule 5 do not include any specific record-keeping or audit obligations in relation to the exercise of the new powers conferred under that Division as such matters are already provided for by existing police procedures, guidelines and practices. Those procedures, guidelines and practices will apply to the exercise of the new powers in Schedule 5.”
Corrections to Schedule 6

Schedule 6, after line 4, add “The AFP, in consultation with the Attorney-General’s Department and the Office of the Privacy Commissioner, will develop a set of best practice procedures and guidelines to govern the collection, use, handling, retention and disposal of personal information acquired under the amendments in Schedule 6 of the Bill.”

Corrections to Schedule 7

Schedule 7, page 87, after line 3, add “In recognition of the sensitivity of the amendments contained in Schedule 7, the Attorney-General proposes to provide a reference to the Australian Law Reform Commission to conduct a public inquiry into the provisions in Schedule 7, as well as the existing offences against the government and Constitution in Part II and Part IIA of the Crimes Act 1914.”

Corrections to Schedule 8

Schedule 8, page 95, after line 6, add “The AFP, in consultation with the Attorney-General’s Department and the Office of the Privacy Commissioner, will develop a set of best practice procedures and guidelines to govern the collection, use, handling, retention and disposal of personal information acquired under the amendments in Schedule 8 of the Bill.

Corrections to Schedule 9

Schedule 9, items 12 and 13, page 105 (lines 10 to 13), omit “These offences of failing to communicate information when required or providing false or misleading information are punishable by imprisonment for two years under existing subsections 28(4) and 29(5) respectively”, substitute “The offence of failure to provide information carries a maximum penalty of two years imprisonment under subsection 28(4) and the offence of providing false or misleading information carries a maximum penalty of five years imprisonment under subsection 29(5)” to correct a typographical error in the Explanatory Memorandum.

Corrections to Schedule 10

Schedule 10, after line 22, add “The Australian Security Intelligence Organisation, in consultation with the Inspector-General of Intelligence and Security, will develop a set of best practice procedures and guidelines to govern the collection, use, handling, retention and disposal of personal information acquired under the amendments in Schedule 10 of the Bill.”