

## **A REVIEW OF THE *PEACE AND GOOD BEHAVIOUR ACT 1982***

1. I, ROD WELFORD, Attorney-General and Minister for Justice refer the *Peace and Good Behaviour Act 1982* (the Act) to the Queensland Law Reform Commission (the Commission) for review pursuant to section 10 of the *Law Reform Commission Act 1968*, including but not limited to:
  - whether the Act provides an appropriate, easily accessible and effective mechanism for protection of the community from breaches of the peace;
  - if the Commission considers the Act does not provide an appropriate, easily accessible and effective mechanism:
    - (a) what amendments should be made to make it appropriate, easily accessible and effective; or
    - (b) should a new mechanism be established.
2. In undertaking this reference I ask the Commission to have regard to:
  - the procedure in the Act for a complainant to seek a Peace and Good Behaviour order from the Magistrates Court which requires:
    - a complaint made to a justice of the peace about threatened conduct;
    - the justice of the peace issuing a summons for the defendant's appearance in court or a warrant of apprehension if the justice of the peace is satisfied that it is reasonable for the complainant to be in fear of the defendant; and
    - the Magistrate making an order on the appearance of the defendant in response to the summons or warrant;
  - the grounds for obtaining a summons, warrant and an order which require:
    - (a) the defendant to have threatened to assault or to do bodily injury to the complainant or to any person under the care of the complainant (which includes the defendant getting another person to threaten the complainant); or
    - (b) the defendant to have threatened to destroy or damage any property of the complainant (which includes the defendant getting another person to threaten the complainant); and
    - (c) the complainant to be in fear of the defendant;

- a proposed additional basis for obtaining a summons, warrant and order which would permit a complainant to apply for an order where the defendant's conduct causes the complainant apprehension or fear of personal violence or violence against property but the defendant's conduct falls short of an actual threat;
  - the protection provided against domestic violence by the *Domestic and Family Violence Protection Act 1989* and the expansion of that Act's jurisdiction in 2002 to cover many persons who might have otherwise sought an order under the Act;
  - issues that have been raised about the effectiveness of the Act in addressing the needs of the community in terms of protecting individuals against breaches of the peace. In particular that:
    - the ambit of conduct covered by the Act is not appropriate being either too wide or too restrictive;
    - the process to obtain an order is complex;
    - the filing fee prevents many people from seeking orders;
    - it is difficult to enforce orders which means that the orders are ineffectual.
3. In performing its functions under this reference, the Commission is asked to prepare, if relevant, draft legislation based on the Commission's recommendations.
4. The Commission is to report to the Attorney-General and Minister for Justice by 31 December 2005.

Dated the 7<sup>th</sup> day of July 2004.

**Rod Welford MP**  
**Attorney-General and Minister for Justice**