

Queensland



**POLICE POWERS AND
RESPONSIBILITIES AND
OTHER LEGISLATION
AMENDMENT ACT 2003**

Act No. 92 of 2003

Queensland



**POLICE POWERS AND
RESPONSIBILITIES AND OTHER
LEGISLATION AMENDMENT ACT 2003**

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Queensland



**Police Powers and Responsibilities and Other
Legislation Amendment Act 2003**

Act No. 92 of 2003

**An Act to amend the *Police Powers and Responsibilities Act 2000* and
other legislation, and for other purposes**

[Assented to 3 December 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2003*.

2 Commencement

(1) Parts 4 and 12¹ commence 1 April 2004.

(2) Section 13 and part 11A² commence on a day to be fixed by proclamation.

(3) The following provisions commence on a day to be fixed by proclamation or 1 November 2004, whichever happens first—

- part 13, division 3;
- section 80;
- part 15.³

1 Parts 4 (Amendment of Child Protection Act 1999) and 12 (Amendment of Vagrants, Gaming and Other Offences Act 1931)

2 Section 13 (Replacement of s 371A (Power to seize potentially harmful things)) and part 11A (Amendment of Public Service Act 1996)

3 Part 13 (Amendment of Weapons Act 1990), division 3 (Amendments commencing after assent), section 80 (Amendment of s 25A (Miscellaneous weapons licence)) and part 15 (Amendment of Weapons (Categories) Regulation 1997)

PART 2—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES ACT 2000

3 Act amended in pt 2 and sch

This part and the schedule amend the *Police Powers and Responsibilities Act 2000*.

4 Amendment of s 44A (Prevention of particular offences relating to liquor)

(1) Section 44A(1) and (2)—

omit, insert—

‘(1) This section applies if—

(a) a police officer reasonably suspects a person has committed, is committing or is about to commit an offence against any of the following at a place—

(i) *Liquor Act 1992*, section 164, 168B or 173B;⁴

(ii) *Community Services (Aborigines) Act 1984*, section 103;⁵

(iii) *Community Services (Torres Strait) Act 1984*, section 101;⁶
and

(b) the police officer reasonably suspects an opened container of liquor at the place in the person’s possession or under the person’s control relates to, or is contributing to, or is likely to contribute to, the commission of the offence by the person.

‘(2) The police officer may seize—

(a) the opened container and its contents; and

4 *Liquor Act 1992*, section 164 (Conduct causing public nuisance), 168B (Prohibition of possession of liquor in restricted area) or 173B (Consumption of liquor in certain public places prohibited)

5 *Community Services (Aborigines) Act 1984*, section 103 (Possession or consumption of alcohol in or on dry place)

6 *Community Services (Torres Strait) Act 1984*, section 101 (Possession or consumption of alcohol in or on dry place)

- (b) any unopened container of liquor at the place, and its contents, the police officer reasonably suspects relates to, or is contributing to, or is likely to contribute to, the commission of an offence against a provision mentioned in subsection (1) at the place by the person or another person.

‘(3) A police officer may dispose of anything seized under subsection (2) in the way the police officer considers reasonably necessary to prevent the commission, continuation or repetition of the offence.

Example for subsection (3)—

The police officer may empty an opened can of beer found by the police officer being consumed by a person in contravention of a provision mentioned in subsection (1) or an unopened can of beer likely to be consumed in contravention of a provision mentioned in subsection (1).’.

(2) Section 44A(3)(a), ‘, and to have become the property of,’—

omit.

(3) Section 44A(4), definition “liquor provision”—

omit.

(4) Section 44A(4)—

insert—

‘**“liquor”** means—

- (a) liquor, as defined in the *Liquor Act 1992*, section 4B;⁷ or
(b) methylated spirits.’.

(5) Section 44A(3), and (4), as amended—

renumber as section 44A(4) and (6).

(6) Section 44A—

insert—

‘(5) For this section, a reference in a provision of an Act mentioned in subsection (1) to alcohol or liquor is taken to include a reference to methylated spirits.’.

⁷ *Liquor Act 1992*, section 4B (Meaning of “liquor”)

5 Insertion of new s 59AA

After section 59A—

insert—

‘59AA When a person is charged for this division in relation to a notice to appear or an arrest

‘(1) This section applies if a proceeding for a prescribed offence is started against a person by notice to appear or arrest.

‘(2) If the proceeding is started by notice to appear, the person is taken to be charged with the offence when the notice to appear is issued and served on the person.

‘(3) If the proceeding is started by arrest, the person is taken to have been charged with the offence when the person is arrested.’.

6 Amendment of s 59C (Powers for prescribed offence)

(1) Section 59C(2), ‘person in control’—

omit, insert—

‘driver’.

(2) Section 59C(3)(a), from ‘person in control’ to ‘possession’—

omit, insert—

‘driver of the vehicle or the person in possession’.

(3) Section 59C(4), from ‘Unless’ to ‘a vehicle’—

omit, insert—

‘A vehicle’.

(4) Section 59C(6)(b), after ‘59H’—

insert—

‘or 59HA⁸’.

8 Section 59H (Application for impounding order) or 59HA (Application for forfeiture order)

7 Amendment of s 59G (Content of notice for second or subsequent offence)

(1) Section 59G(1)—

omit, insert—

‘(1) This section applies if a police officer reasonably suspects that, in addition to the offence for which the vehicle is impounded under section 59C⁹ (“**initiating impoundment offence**” and “**initiating impoundment**”), and within 3 years before the initiating impoundment (the “**relevant period**”)—

- (a) the driver of the impounded vehicle has previously been charged with having committed a prescribed offence on at least 1 previous occasion within the relevant period and the charge has not been decided; or
- (b) the driver of the impounded vehicle has previously been found guilty of a prescribed offence committed on at least 1 previous occasion within the relevant period.

‘(2) Subject to section 59A(2),¹⁰ the relevant period includes periods before and after the commencement of this subsection.’.

(2) Section 59G(2)(a)(i) and (ii)—

omit, insert—

- ‘(i) for an order that the vehicle be impounded for up to 3 months, if either of the following apply to the driver at the time of the initiating impoundment—
 - (A) the driver has previously been charged with having committed a prescribed offence on 1 previous occasion within the relevant period and the charge has not been decided before the initiating impoundment;
 - (B) the driver has previously been found guilty of a prescribed offence committed on 1 previous occasion within the relevant period; or

⁹ Section 59C (Powers for prescribed offence)

¹⁰ Section 59A (Application of div 2)

- (ii) for an order that the vehicle be forfeited to the State, if any of the following apply to the driver at the time of the initiating impoundment—
 - (A) the driver has previously been charged with having committed prescribed offences on at least 2 previous occasions within the relevant period and the charges have not been decided before the initiating impoundment;
 - (B) the driver has previously been found guilty of having committed prescribed offences committed on at least 2 previous occasions within the relevant period;
 - (C) the driver has previously been found guilty of having committed a prescribed offence on at least 1 previous occasion within the relevant period and has previously been charged with having committed a prescribed offence on at least 1 previous occasion within the relevant period and the charge has not been decided before the initiating impoundment; and’.

(3) Section 59(G)(2)(b) and (d), ‘person in control’—

omit, insert—

‘driver’.

(4) Section 59G(2), as amended—

renumber as section 59G(3).

8 Replacement of ss 59H and 59I

Sections 59H and 59I—

omit, insert—

‘59H Application for impounding order

‘(1) This section applies if, in addition to the initiating impoundment offence—

- (a) the driver of the vehicle has previously been charged with having committed a prescribed offence on 1 previous occasion within the relevant period and the charge has not been decided before the initiating impoundment; or

- (b) the driver of the vehicle has previously been found guilty of a prescribed offence committed on 1 previous occasion within the relevant period.

‘(2) Within 48 hours after the initiating impoundment, a police officer must apply for an order that the impounded vehicle be held at a holding yard for a period of not more than 3 months (“**impounding order**”).

‘(3) The application must be made in relation to 2 prescribed offences, consisting of—

- (a) the prescribed offence the circumstances of which apply to the driver under subsection (1)(a) or (b); and
- (b) the initiating impoundment offence.

‘(4) The application must be made to a Magistrates Court but may be started by application to a magistrate under section 451¹¹ and subsection (6) of this section.

‘(5) Subsection (4) applies even though the value of the vehicle may be more than the maximum amount that may be claimed in a personal action in the civil jurisdiction of a Magistrates Court.

‘(6) If the application is properly made to a magistrate under section 451, the magistrate must—

- (a) order—
- (i) that a police officer may have the application brought on for hearing and decision in the relevant Magistrates Court and adjourn the application to that court; and
- (ii) that the vehicle be returned to a named person; and
- (b) give a copy of the application and the order to the clerk of the court of the relevant Magistrates Court.

‘(7) In this section—

“relevant Magistrates Court” means the relevant Magistrates Court as defined under section 59J.¹²

11 Section 451 (Obtaining warrants, orders and authorities, etc., by telephone or similar facility)

12 Section 59J (Where application is to be decided)

‘59HA Application for forfeiture order

‘(1) This section applies if, at the time of the initiating impoundment, in addition to the initiating impoundment offence, the driver of the vehicle has previously been charged with having committed prescribed offences on at least 2 previous occasions within the relevant period and any of the following circumstances apply to the driver—

- (a) the charges of the prescribed offences have not been decided before the initiating impoundment;
- (b) the driver has been found guilty of 1 of the prescribed offences but the other charge or charges have not been decided before the initiating impoundment;
- (c) the driver has previously been found guilty of having committed the prescribed offences on at least 2 previous occasions.

‘(2) Within 48 hours after the initiating impoundment, a police officer must apply for an order that the impounded vehicle be forfeited to the State (“forfeiture order”).

‘(3) The application must be made in relation to at least 3 prescribed offences consisting of—

- (a) the prescribed offences the circumstances of which apply to the driver under subsection (1)(a), (b) or (c); and
- (b) the initiating impoundment offence.

‘(4) The application must be made to a Magistrates Court but may be started by application to a magistrate under section 451 and subsection (6) of this section.

‘(5) Subsection (4) applies even though the value of the vehicle may be more than the maximum amount that may be claimed in a personal action in the civil jurisdiction of a Magistrates Court.

‘(6) If the application is properly made to a magistrate under section 451, the magistrate must—

- (a) order—
 - (i) that a police officer may have the application brought on for hearing and decision in the relevant Magistrates Court and adjourn the application to that court; and
 - (ii) that the vehicle be returned to a named person; and

- (b) give a copy of the application and the order to the clerk of the court of the relevant Magistrates Court.

‘(7) In this section—

“**relevant Magistrates Court**” means the relevant Magistrates Court as defined under section 59J.

‘59I Orders on application for impounding order if relevant offence not decided

‘(1) This section applies if—

- (a) an application is made to a relevant Magistrates Court for an impounding order about an impounded vehicle; and
- (b) any proceeding on a charge of a prescribed offence or offences in relation to which the application is made (“**initiating application charges**”) has not been decided.

‘(2) If the driver of the vehicle has not been found guilty of prescribed offences in relation to offences committed on 2 occasions within the prescribed period, the court must adjourn the application until the driver of the impounded vehicle is found guilty of charges in relation to offences committed on 2 occasions within the prescribed period.

‘(3) Unless the initiating impoundment has already ended, the court adjourning the application must order that the impounded vehicle be returned to a named person.

‘(4) If the application relates to at least 1 prescribed offence of which the driver has previously been found guilty, the court may, if satisfied the vehicle should be impounded to stop the commission of another prescribed offence, refuse to order the return of the impounded vehicle.

‘(5) The owner of the vehicle must not sell or otherwise dispose of a vehicle returned under subsection (3) until the application for the impounding order is decided or otherwise ends.

Maximum penalty—40 penalty units.

‘(6) If the court does not order the return of the vehicle to the owner under subsection (3), the period for which the vehicle is impounded must not be more than 3 months.

‘(7) In this section—

“prescribed period” means the prescribed period as defined under section 59L.

‘59IA Orders on application for forfeiture order if relevant offence not decided

‘(1) This section applies if—

- (a) an application is made to a relevant Magistrates Court for a forfeiture order about an impounded vehicle; and
- (b) any proceeding on a charge of a prescribed offence or offences in relation to which the application is made has not been decided.

‘(2) If the driver of the vehicle has not been found guilty of prescribed offences in relation to offences committed on 3 occasions within the prescribed period, the court must adjourn the application until the driver of the impounded vehicle is found guilty of charges in relation to offences committed on at least 3 occasions within the prescribed period.

‘(3) Unless the initiating impoundment has already ended, the court adjourning the application must order that the impounded vehicle be returned to a named person.

‘(4) If the application relates to at least 1 prescribed offence of which the driver has previously been found guilty, the court may, if satisfied the vehicle should be impounded to stop the commission of another prescribed offence, refuse to order the return of the impounded vehicle.

‘(5) The owner of the vehicle must not sell or otherwise dispose of a vehicle returned under subsection (3) until the application for the forfeiture order is decided or otherwise ends.

Maximum penalty—40 penalty units.

‘(6) If the court does not order the return of the vehicle to the owner under subsection (3), the period for which the vehicle is impounded must not be more than 3 months.

‘(7) In this section—

“prescribed period” means the prescribed period as defined under section 59L.’.

9 Replacement of s 59J (Where application to be decided)

Section 59J—

omit, insert—

‘59J Where application is to be decided

‘(1) An application for an impounding order or a forfeiture order must be heard and decided by the relevant Magistrates Court.

‘(2) An application for an order mentioned in subsection (1) must be heard and decided as soon as practicable after the person to whom an application relates is found guilty of—

- (a) for an impounding order—2 prescribed offences committed on 2 occasions within the prescribed period; or
- (b) for a forfeiture order—3 prescribed offences committed on 3 occasions within the prescribed period.

‘(3) In this section—

“**prescribed period**” means the prescribed period as defined under section 59L.

“**relevant Magistrates Court**” means the Magistrates Court for the Magistrates Court district, or division of the district, in which the vehicle was impounded for the initiating impoundment offence.’.

10 Amendment of s 59L (Consideration of application)

(1) Section 59L(1)(a) and (b), ‘person in control’—

omit, insert—

‘driver’.

(2) Section 59L(1)(a), ‘on 2 occasions’—

omit, insert—

‘committed on 2 occasions within the prescribed period’.

(3) Section 59L(1)(b), ‘on 3 or more occasions’—

omit, insert—

‘committed on 3 occasions within the prescribed period’.

(4) Section 59L(1)(a) and (b), ‘previously’—

omit.

(5) Section 59L(1)—

insert—

‘(c) if the application was for a forfeiture order and the court can not make the order under paragraph (b) but can make an order under paragraph (a)—order, under paragraph (a), that the vehicle be impounded for a stated period, of not more than 3 months.’.

(6) Section 59L(2)(b), from ‘if the person’ to ‘order the person’—

omit, insert—

‘if the driver of the impounded vehicle was an adult—order the driver’.

(7) Section 59L—

insert—

‘(6) In this section—

“prescribed period”, in relation to an application for an impounding order or a forfeiture order, includes—

- (a) the relevant period; and
- (b) any period from the end of the relevant period to and including the day on which the application is heard and decided.’.

11 Insertion of new s 59LA

After section 59L—

insert—

‘59LA Counting the occasions

‘(1) For sections 59G to 59L, for an occasion of the commission of an offence to be counted in addition to another occasion counted, an occasion must be a separate occasion, that is, an event or series of events that happened on an occasion separate to the event or series of events making up the other occasion.

‘(2) However, if a series of events that would, apart from this subsection, be treated as a single occasion of the commission of an offence under subsection (1) includes the intervention in any way by a police officer between the commission of 1 prescribed offence and another in the course

of the events, the events that happen after the police officer's intervention must be treated as a separate occasion.

Example for subsection (2)—

A driver commits a prescribed offence at 10 p.m. on 1 January. The driver is stopped by a police officer. Before the driver can be given a notice to appear in relation to the prescribed offence, the driver continues to commit the offence but using another vehicle. A police officer again stops the driver. The police officer impounds both vehicles. Because a police officer has intervened between the happening of the first and second offences, the occasions must be treated as 2 separate occasions for this division.

‘(3) In sections 59G to 59HA, a reference to a prescribed offence committed on a previous occasion is a reference to a prescribed offence committed on an occasion before the occasion on which the initiating impoundment offence was committed.

‘(4) Subject to subsections (1) to (3), for a decision under sections 59H to 59L of whether or not a person has previously been charged with, or found guilty of, a prescribed offence committed on a previous occasion or a number of previous occasions or on a number of occasions, the following do not matter—

- (a) whether or not any finding of guilt relied on relates to a charge heard and decided together with another charge or other charges relating to another or other findings of guilt being relied on;
- (b) whether or not findings of guilt relied on relate to charges that were heard and decided in the order in which the occasions of the commission of offences to which they related happened;
- (c) whether or not any occasion of the commission of an offence, or any charge or any finding of guilt, relied on happened before or after any occasion of the commission of an offence, charge or finding of guilt also relied on.

Example—

An offender commits prescribed offences on 1 January (offence 1), 1 May (offence 2) and 1 June (offence 3). The offender is charged with offence 1 on 1 January, offence 2 on 1 May and offence 3 on 1 June. The offender is convicted of offence 3 on 15 June and offences 1 and 2 on 1 October. When a court or magistrate considers the application for impoundment or forfeiture on 1 December, for the purpose of counting the occasions mentioned in subsection (1), there are 3 occasions the court may rely on to make an order.

‘(5) For the purpose of a decision under section 59L, the following does not matter—

- (a) whether or not any finding of guilt relied on relates to an initiating application charge;

Example—

An application may relate to particular prescribed offences but before the initiating application charges of prescribed offences committed by a driver are decided, the driver is found guilty on a charge of a prescribed offence committed after the charge or charges of the prescribed offence in relation to which the application is made have been decided.

- (b) whether or not any finding of guilt relied on in an application relates to an offence committed before or after the application was started.’.

12 Amendment of s 59O (Powers for enforcing court order)

Section 59O(1)(a), after ‘59I(3)’—

insert—

‘or 59IA(3)’.

13 Replacement of s 371A (Power to seize potentially harmful things)

Section 371A—

omit, insert—

‘371A Power to seize potentially harmful things

‘(1) This section applies if a police officer—

- (a) finds a person in circumstances in which the police officer reasonably suspects the person is in possession of a potentially harmful thing the person has ingested or inhaled, is ingesting or inhaling, or is about to ingest or inhale; or
- (b) finds a person in possession of a potentially harmful thing in circumstances in which the police officer reasonably suspects the person has ingested or inhaled, is ingesting or inhaling, or is about to ingest or inhale, the thing.

Example for paragraph (a)—

A police officer finds a person with paint on the person’s lips.

‘(2) The police officer may search the person and anything in the person’s possession to find out whether the person is in possession of a potentially harmful thing.

‘(3) If the person is in possession of a potentially harmful thing, the police officer may ask the person to explain why the person is in possession of the thing.

‘(4) If the person does not give a reasonable explanation, the police officer may seize the potentially harmful thing.

‘(5) It is not a reasonable explanation for subsection (4) that the person is in possession of the potentially harmful thing to inhale it or ingest it.

‘(6) On the seizure of the potentially harmful thing, the thing is forfeited to the State.

‘(7) Section 380¹³ does not apply to a thing seized under this section.

‘371B Dealing with persons affected by potentially harmful things

‘(1) This section applies to a person at a declared locality if, because of the way the person is behaving and other relevant indicators, a police officer is satisfied the person is affected by the ingestion or inhalation of a potentially harmful thing.

Example of a relevant indicator—

The presence of spray paint cans near the person.

‘(2) However, this section applies to the person only if it is appropriate for the person to be taken to a place, other than a police establishment or police station, and the police officer considers the place is a place at which the person can receive the treatment or care necessary to enable the person to recover safely from the effects of the potentially harmful thing (a “**place of safety**”).

Examples of a place of safety—

1. A hospital may be a place of safety for a person who needs medical attention.
2. A vehicle used to transport persons to a place of safety and under the control of someone other than a police officer may be a place of safety.
3. The person’s home, or the home of a relative or friend, may be a place of safety if there is no likelihood of domestic violence or associated domestic violence

13 Section 380 (Receipt for seized property)

happening at the place because of the person's condition or the person is not subject to a domestic violence order preventing the person from entering or remaining at the place.

'(3) It is lawful for the police officer to detain the person for the purpose of taking the person to a place of safety.

'(4) In this section—

“declared locality” means a locality declared under a regulation for this section.

'371C Duties in relation to person detained under s 371B

'(1) It is the duty of the police officer who detains a person under section 371B, at the earliest reasonable opportunity—

- (a) to take the person to a place of safety; and
- (b) to release the person at the place of safety.

Example—

The place of safety may be a vehicle under the control of someone other than a police officer that is used to transport persons to another place of safety.

'(2) Subsection (1) does not apply if the police officer is satisfied—

- (a) a person at a place of safety refuses, or is unable, to provide care for the relevant person; or
- (b) the relevant person's behaviour may pose a risk of harm, including, but not limited to, an act of domestic violence or associated domestic violence, to other persons at a place of safety; or
- (c) the police officer is unable to find a place of safety that is willing to provide care for the relevant person.

'(3) If this section does not apply because of subsection (2), the person must be released.

'(4) Before the police officer releases the person, the police officer must ensure the person apparently in possession or in charge of the relevant place of safety gives a police officer a signed undertaking in the approved form to provide care for the relevant person.

‘(5) If the place of safety is not the person’s home, the person apparently in possession or in charge of the place of safety may lawfully provide care for the person until the person voluntarily leaves the place.

‘(6) As soon as practicable after a person is released under subsection (1) or (3), the police officer must enter in a register kept for this section the particulars prescribed under a regulation for this section.

‘371D No compulsion to stay at place of safety

‘A person taken to a place of safety can not be compelled to stay there, unless another Act otherwise requires.

‘371E Review of operation of ss 371B–371D

‘(1) The CMC must keep the operation of sections 371B to 371D under review for 9 months after the sections commence.

‘(2) The conduct of the review and the preparation of the report is a function of the CMC for the *Crime and Misconduct Act 2001*.

‘(3) In the course of preparing the report, the CMC must consult with the Minister.

‘(4) The CMC must give a copy of the report to the Speaker for tabling in the Legislative Assembly.

‘371F Expiry of ss 371B–371E

‘(1) Sections 371B to 371E and this section expire 1 year after they commence.

‘(2) However, a regulation may extend the operation of the provisions and this section for periods of up to 1 year.’

14 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definition “place of safety”—
omit.

(2) Schedule 4—
insert—

‘**“forfeiture order”**’ see section 59HA.¹⁴

“found guilty”, of an offence, means there is a finding of guilt, or the acceptance of a plea of guilty, by a court, whether or not a conviction is recorded.

“impounding order” see section 59H.¹⁵

“initiating application charges” for an application for an impounding order—see section 59I.¹⁶

“initiating impoundment” see section 59G.¹⁷

“initiating impoundment offence” see section 59G.

“methylated spirits” has the same meaning as in the *Spirits Act 1906* (Cwlth).

“place of safety”—

(a) for chapter 6, part 4—see section 210;¹⁸ or

(b) for chapter 9, part 5—see section 371B.¹⁹

“potentially harmful thing”—

(a) means a thing a person may lawfully possess that is or contains a substance that may be harmful to a person if ingested or inhaled; and

Examples—

1. Glue.
2. Paint.
3. A solvent.

(b) includes methylated spirits; and

14 Section 59HA (Application for forfeiture order)

15 Section 59H (Application for impounding order)

16 Section 59I (Orders on application for impounding order if relevant offence not decided)

17 Section 59G (Content of notice for second or subsequent offence)

18 Chapter 6 (Arrest and custody powers), part 4 (Discontinuing arrest)

19 Chapter 9 (Other powers), part 5 (Miscellaneous powers)

- (c) does not include a thing intended by its manufacturer to be inhaled or ingested by a person using it.

“**relevant period**”, for chapter 2, part 6, division 2—see section 596.²⁰.

PART 3—AMENDMENT OF BAIL ACT 1980

15 Act amended in pt 3

This part amends the *Bail Act 1980*.

16 Amendment of s 7 (Power of police officer to grant bail)

(1) Section 7(1)(a)(i), after ‘officer-in-charge of a’—

insert—

‘police station or’.

(2) Section 7(1)(c), ‘the police officer’—

omit, insert—

‘a prescribed police officer’.

(3) Section 7(1A), ‘The police officer’—

omit, insert—

‘The prescribed police officer’.

(4) Section 7(3) and (3A)—

omit, insert—

‘(3) If the prescribed police officer refuses to grant bail to a person under this section, the officer must write the officer’s reasons for the refusal—

- (a) on the papers relating to the person; or
- (b) on the warrant; or

²⁰ Chapter 2 (General enforcement powers), part 6 (Powers relating to vehicles, traffic and animals), division 2 (Vehicle impounding powers for prescribed offences)

(c) in a register or record of persons in custody.

‘(3A) The keeping of the person in custody is not unlawful only because of a failure to comply with subsection (3).’.

(5) Section 7(6)—

insert—

‘**“officer-in-charge”**, of a police station or police establishment, includes a police officer nominated by the officer-in-charge of the police station or police establishment as the officer-in-charge of the police station or police establishment during the officer-in-charge’s absence.

“prescribed police officer”, in relation to a person in custody, means—

(a) if the person is in custody at a police station or police establishment—the officer-in-charge of the police station or police establishment; or

(b) if the person is in custody at a watch-house—

(i) the watch-house manager; or

(ii) another police officer whose duties include performing functions at the watch-house in relation to persons in custody.’.

(6) Section 7(1A) to (6), as amended—

renumber as section 7(2) to (9).

17 Amendment of s 28A (Other warrants for apprehension of defendant)

Section 28A(1)(c), ‘7(1A)(b)’—

omit, insert—

‘7(2)(b)’.

18 Insertion of new s 40

After section 39—

insert—

40 Provisions concerning bail decisions under s 7

(1) It is declared that a bail decision made under section 7 during the relevant period is not invalid only because the police officer making the decision lacked the capacity to make it.

(2) In this section—

“**bail decision**” means a decision to grant, or refuse to grant, bail.

“**relevant period**” means the period starting on 1 July 2000 and ending immediately before the commencement of this section.’.

PART 4—AMENDMENT OF CHILD PROTECTION ACT 1999

19 Act amended in pt 4

This part amends the *Child Protection Act 1999*.

20 Omission of s 248 (Tattooing of children prohibited)

Section 248—

omit.

PART 5—AMENDMENT OF CORRECTIVE SERVICES ACT 2000

21 Act amended in pt 5

This part amends the *Corrective Services Act 2000*.

22 Amendment of s 54 (Transfer to court)

(1) Section 54(1) and (3), after ‘a court order’—

insert—

‘or an attendance authority’.

(2) Section 54(4)—

insert—

‘**“attendance authority”** means—

- (a) a summons under the *Justices Act 1886*; or
- (b) a notice to appear under the *Police Powers and Responsibilities Act 2000*.’.

PART 5A—AMENDMENT OF CRIMINAL CODE

22A Act amended in pt 5A

This part amends the Criminal Code.

22B Amendment of s 328A (Dangerous operation of a vehicle)

(1) Section 328A(4)(b), from ‘concentration of alcohol’ to ‘100 ml of blood’—

omit, insert—

‘offender was, at that time, over the high alcohol limit’.

(2) Section 328A(5)—

insert—

‘**“high alcohol limit”** see the *Transport Operations (Road Use Management) Act 1995*, section 79A.²¹’.

(3) Section 328A(5), definition “operates, or in any way interferes with the operation of, a vehicle dangerously”, paragraph (d), after ‘in the operator’s blood’—

²¹ *Transport Operations (Road Use Management) Act 1995*, section 79A (When is a person over the limit)

insert—

‘or breath’.

PART 6—AMENDMENT OF CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986

23 Act amended in pt 6A

This part amends the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

24 Amendment of s 9A (Disclosure of particulars in special cases)

Section 9A, table, after item 1—

insert—

- | | |
|---|--|
| 1A. Persons other than police officers who are engaged or employed in the Queensland Police Service | Contraventions of or failure to comply with any provisions of law, whether committed in Queensland or elsewhere. |
| 1B. External service providers within the meaning of the <i>Police Service Administration Act 1990</i> | Contraventions of or failure to comply with any provisions of law, whether committed in Queensland or elsewhere. |
| 1C. Applicants for employment in the Queensland Police Service | Contraventions of or failure to comply with any provisions of law, whether committed in Queensland or elsewhere. |
| 1D. Persons performing functions for the Queensland Police Service under a contract for services | Contraventions of or failure to comply with any provisions of law, whether committed in Queensland or elsewhere.’. |

PART 7—AMENDMENT OF JUVENILE JUSTICE ACT 1992

25 Act amended in pt 7

This part amends the *Juvenile Justice Act 1992*.

26 Amendment of s 50 (Dealing with a child if court can not be promptly constituted)

(1) Section 50(1)(a), after ‘police station’—

insert—

‘, police establishment’.

(2) Section 50(2), after ‘of the place’—

insert—

‘or, if the place is a watch-house, a prescribed police officer within the meaning of the *Bail Act 1980*, section 7,²²’.

PART 8—AMENDMENT OF LIQUOR ACT 1992

27 Act amended in pt 8

This part amends the *Liquor Act 1992*.

28 Amendment of s 156 (Liquor prohibited to certain persons)

Section 156(3), penalty—

omit, insert—

‘Maximum penalty for subsections (1) to (3)—

- (a) for an offence committed by the licensee, permittee, nominee or manager of the premises—

²² *Bail Act 1980*, section 7 (Power of police officer to grant bail)

-
- (i) if the person to whom the offence relates is a minor—250 penalty units; or
 - (ii) if the person to whom the offence relates is unduly intoxicated or disorderly—500 penalty units; or
 - (b) for an offence committed other than by the licensee, permittee, nominee or manager of the premises—
 - (i) if the person to whom the offence relates is a minor—40 penalty units; or
 - (ii) if the person to whom the offence relates is unduly intoxicated or disorderly—80 penalty units.’.

PART 8A—AMENDMENT OF POLICE POWERS AND RESPONSIBILITIES (FORENSIC PROCEDURES) AMENDMENT ACT 2003

28A Act amended in pt 8A

This part amends the *Police Powers and Responsibilities (Forensic Procedures) Amendment Act 2003*.

28B Amendment of s 10 (Replacement of ch 8, pts 2–4 and pt 5, hdg of Act No. 5 of 2000)

Section 10, new section 318ZF(6), definition “reporting notice”, from ‘section 318B(2)’—

omit, insert—

‘section 318A(2).²³’.

23 Section 318A (Prisoner serving term of imprisonment for prescribed indictable offence)

PART 9—AMENDMENT OF POLICE SERVICE ADMINISTRATION ACT 1990

29 Act amended in pt 9

This part amends the *Police Service Administration Act 1990*.

30 Amendment of s 1.4 (Definitions)

Section 1.4—

insert—

‘ **“conviction”**, in a provision of part 5AA, means a finding of guilt, or the acceptance of a plea of guilty, by a court for an offence—

- (a) whether or not a conviction is recorded; and
- (b) whether in Queensland or elsewhere; and
- (c) whether before or after the commencement of part 5AA.

“criminal history”, of a person, for part 5AA and the schedule—

- (a) means the person’s convictions in relation to offences committed in Queensland or elsewhere; and
- (b) includes information about offences of any kind alleged to have been committed, in Queensland or elsewhere, by the person.

“CrimTrac Agency” means the CrimTrac Agency established under the *Public Service Act 1999* (Cwlth), section 65.²⁴

“declared law enforcement agency” has the same meaning as in the *Police Powers and Responsibilities Act 2000*.

“engaged by the service” see section 5AA.3.²⁵

“external service provider”, for part 5AA, means a public service employee, or class of public service employee—

- (a) who is employed or engaged in an entity other than the service; and

24 *Public Service Act 1999* (Cwlth), section 65 (Establishment etc. of Executive Agencies)

25 Section 5AA.3 (Meaning of “engaged by the service”)

-
- (b) whose functions include, or may include, performing direct corporate service support for the service that allows the person access to corporate or operational information in the possession of the commissioner; and
 - (c) who is declared by regulation to be an external service provider for this part.

“QPS database”, in the schedule, means any of the following—

- (a) the database known as CRISP;
- (b) the drug index;
- (c) the prosecutions index;
- (d) a register of enforcement acts;
- (e) the traffic incidents reports index.

“relevant information”, about a person, for part 5AA, means information about the person of a kind mentioned in the schedule for the person.’.

31 Insertion of new s 1.6

After section 1.5—

insert—

‘1.6 Notes in text

‘A note in the text of this Act is part of the Act.’.

32 Insertion of new pt 5AA

After part 5—

insert—

**‘PART 5AA—ASSESSMENT OF SUITABILITY OF
PERSONS SEEKING TO BE ENGAGED, OR ENGAGED,
BY THE SERVICE**

‘Division 1—Preliminary

‘5AA.1 Purpose of pt 5AA

‘The purpose of this part is to ensure the commissioner—

- (a) may gather all the relevant information the commissioner needs about a person engaged or seeking to be engaged by the service; and
- (b) may use the information to assess the person’s suitability to be, or continue to be, engaged by the service.

‘5AA.2 Parliament’s intention

‘(1) It is Parliament’s intention that relevant information about a person that is obtained by the commissioner under this part is to be used only for assessing the person’s suitability to be, or continue to be, engaged by the service.

‘(2) However, it is not Parliament’s intention to prevent the commissioner using information obtained under this part that discloses the commission of an offence, or is, or leads to, the discovery of evidence of the commission of an offence, for an investigation into the offence and any proceeding started or facilitated because of the investigation.

‘5AA.3 Meaning of “engaged by the service”

‘A person is “engaged by the service” for this part if the person is 1 of the following—

- (a) a police officer;
- (b) a staff member;
- (c) a recruit;
- (d) a special constable;

-
- (e) an external service provider;
 - (f) a person performing functions at a police station or police establishment under a contract for services;
 - (g) a person working in the service as a volunteer or as a student on work experience.

‘5AA.4 This part applies despite the Criminal Law (Rehabilitation of Offenders) Act 1986

‘This part applies to a person despite anything in the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

‘5AA.5 Person to be advised of duties of disclosure etc.

‘(1) Before a person, other than an external service provider, is engaged by the service, the commissioner must, if the commissioner considers the terms of the engagement require it—

- (a) tell the person—
 - (i) of the person’s duty to disclose relevant information under division 2; and
 - (ii) that the commissioner may obtain relevant information about the person under division 3 and consider relevant information otherwise available to the commissioner; and
- (b) give the person a copy of the guidelines for dealing with relevant information obtained by the commissioner under this part.

‘(2) As soon as practicable after the chief executive officer of an entity other than the service becomes aware a person employed or engaged by the entity is an external service provider, the chief executive officer must—

- (a) tell the person—
 - (i) the person is an external service provider; and
 - (ii) of the person’s duty to disclose relevant information under division 2; and
 - (iii) that the commissioner may obtain relevant information about the person under division 3 and consider relevant information otherwise available to the commissioner; and

- (b) give the person a copy of the guidelines issued by the commissioner for dealing with relevant information obtained by the commissioner under this part.

‘Division 2—Disclosure of relevant information

‘5AA.6 Persons engaged or seeking to be engaged by the service must disclose relevant information

‘(1) Each of the following must, if required by the commissioner, disclose to the commissioner any relevant information known to the person that may affect the person’s suitability to be engaged by the service—

- (a) a person engaged by the service;
- (b) a person seeking to be engaged by the service.

‘(2) A person required to disclose information under subsection (1)(b) must disclose the information before being engaged by the service.

‘5AA.7 Persons engaged by the service must disclose changes in relevant information

‘If a person engaged by the service is aware that there is a change in relevant information about the person, the person must immediately disclose to the commissioner the details of the change.

Note—

For some persons engaged by the service, a failure to disclose a change in relevant information of which the person is aware may become the subject of disciplinary proceedings.

‘5AA.8 Requirements for disclosure

‘(1) To comply with section 5AA.6 or 5AA.7, a person must give the commissioner a disclosure in the approved form.

‘(2) Without limiting subsection (1), the approved form must make provision for the disclosure of the following relevant information—

- (a) the existence of a conviction or charge;
- (b) when an offence was committed or alleged to have been committed;

- (c) details of an offence or alleged offence;
- (d) for a conviction—whether or not a conviction was recorded and other details of the sentence.

‘Division 3—Commissioner may obtain relevant information from other entities

‘5AA.9 Commissioner may request information from other authorities

‘(1) This section applies to a person who—

- (a) is engaged by the service; or
- (b) seeks to be engaged by the service and has given the commissioner a disclosure for the purposes of division 2.

‘(2) Also, this section applies even though the disclosure does not state any relevant information about the person.

‘(3) The commissioner may ask another law enforcement agency, whether a declared law enforcement agency, or a law enforcement agency of another country that has an obligation under the law of that country to assess the integrity of persons employed or engaged by the government of that country, to give the commissioner a report that includes relevant information about the person.

‘5AA.10 Prosecuting authority to notify commissioner about committal, conviction etc.

‘(1) This section applies if a person is charged with an indictable offence and the director of public prosecutions is aware that the person is engaged by the service.

‘(2) The director of public prosecutions must give the commissioner written notice of the person’s name and the following particulars within 7 days after the director of public prosecutions becomes aware of the particulars—

- (a) if the person is committed by a court for trial for an indictable offence—
 - (i) the court committing the person for trial; and

- (ii) particulars of the offence with which the person is charged; and
 - (iii) the date of the committal; and
 - (iv) the court to which the person was committed;
 - (b) if the person is convicted before the Supreme Court or the District Court of an indictable offence—
 - (i) the court convicting the person; and
 - (ii) particulars of the offence; and
 - (iii) the date of the conviction; and
 - (iv) the sentence imposed by the court;
 - (c) if the person is convicted of an indictable offence, and has appealed the conviction, and the appeal is finally decided or has otherwise ended—
 - (i) particulars of the offence of which the person is convicted; and
 - (ii) the date the appeal was decided or otherwise ended; and
 - (iii) if the appeal was decided—
 - (A) the court in which it was decided; and
 - (B) particulars of the decision;
 - (d) if the prosecution process ends without the person being convicted of an indictable offence—
 - (i) if relevant—the court in which the prosecution process ended; and
 - (ii) particulars of the offence with which the person was charged; and
 - (iii) the date the prosecution process ended.
- ‘(3) For subsection (2)(d), a prosecution process ends if—
- (a) an indictment is presented against the person and—
 - (i) a nolle prosequi is entered on the indictment; or
 - (ii) the person is acquitted; or
 - (b) the prosecution process has otherwise ended.

‘(4) A reference in this section to a conviction of an indictable offence includes a summary conviction of an indictable offence.

‘(5) Subsection (1) does not apply if the person is charged by a police officer.

‘(6) Subsection (2)(a) does not apply if the prosecutor appearing is a police officer.

‘(7) Subsection (2)(d) does not apply if the prosecution process ends while a police officer is in charge of the prosecution.

***‘Division 4—Controls on use of relevant information and information
about particular investigations***

‘5AA.11 Assessment of suitability

‘(1) This section applies to the commissioner in considering relevant information about a person under this part.

‘(2) When making the assessment, the commissioner may have regard to all relevant information available to the commissioner, including, but not limited to—

- (a) information that is disclosed to the commissioner under this part; and
- (b) information that is made available by a declared law enforcement agency or a law enforcement agency of another country because of a request made under this part; and
- (c) information that is stored on—
 - (i) a database kept by the commissioner; or
 - (ii) a database kept by another law enforcement agency to which the commissioner has access; and
- (d) information that is otherwise available to the commissioner.

Examples for subsection (2)—

1. Information obtained from previous employment checks.
2. Fingerprint checks.
3. DNA tests.

‘(3) In addition, information obtained under this part may be taken into account in deciding a question of merit under a merit provision.

‘(4) Subsection (3) is in addition to and does not limit a merit provision.

‘(5) In this section—

“merit provision” means—

- (a) section 5.2;²⁶ or
- (b) the *Public Service Act 1996*, section 78.²⁷

‘5AA.12 Particular persons to be advised if person unsuitable

‘(1) If, because of information relied on by the commissioner under this part, the commissioner considers a person, other than an external service provider, may not be suitable to be, or continue to be, engaged by the service, the commissioner must, before deciding the person is not suitable—

- (a) disclose the information to the person; and
- (b) allow the person a reasonable opportunity to make representations to the commissioner about the information.

‘(2) The commissioner must give reasons why the commissioner considers the person may not be suitable to be, or continue to be, engaged by the service unless the commissioner considers the disclosure of the information may—

- (a) prejudice the investigation of a contravention or possible contravention of the law; or
- (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
- (c) endanger a person’s life or physical safety; or
- (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or

26 Section 5.2 (Appointment to be on merit on impartial procedures)

27 *Public Service Act 1996*, section 78 (Selection for appointment to be on merit)

- (e) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
- (f) prejudice national security; or
- (g) be prohibited under a law of this or any other State or the Commonwealth.

‘(3) If, after considering any representations made under subsection (1)(b), the commissioner decides the person is not suitable to be, or continue to be, engaged by the service, the commissioner must give the person a written notice stating that the person is not suitable to be, or continue to be, engaged by the service.

‘(4) Information relied on under this section to decide that a person is not suitable to be engaged by the service can not be used for any other purpose, unless its disclosure is authorised under section 5AA.14(3).

‘5AA.13 External service provider to be advised if person unsuitable

‘(1) If, because of information relied on by the commissioner under this part, the commissioner considers a person who is an external service provider may not be suitable to be, or continue to be, engaged by the service, the commissioner must, before deciding the person is not suitable—

- (a) disclose the information to the person and the chief executive officer of the relevant entity; and
- (b) allow the person and the chief executive officer a reasonable opportunity to make representations to the commissioner about the information; and
- (c) allow the person a reasonable opportunity to make representations to the commissioner about any representations made to the commissioner by the chief executive officer.

‘(2) The commissioner must give reasons why the commissioner considers the person may not be suitable to be, or continue to be, engaged by the service unless the commissioner considers the disclosure of the information may—

- (a) prejudice the investigation of a contravention or possible contravention of the law; or

-
- (b) enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
 - (c) endanger a person's life or physical safety; or
 - (d) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or
 - (e) prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
 - (f) prejudice national security; or
 - (g) be prohibited under a law of this or any other State or the Commonwealth.

‘(3) If, after considering any representations made under subsection (1)(b) or (c), the commissioner decides the person is not suitable to be, or continue to be, engaged by the service, the commissioner must give the person and the chief executive officer of the relevant entity a written notice stating that the person is not suitable to be, or continue to be, engaged by the service.

‘(4) If the person is already employed or engaged by the entity, the chief executive officer must—

- (a) have regard to the commissioner's decision that the person is not suitable to be engaged by the police service and the reasons for the decision; and
- (b) consider whether appropriate steps may be taken to minimise—
 - (i) the potential adverse effects of the assessment; and
 - (ii) the person's access to information in the possession of the commissioner; and
- (c) advise the commissioner of the chief executive officer's decision.

‘(5) If the commissioner considers the steps taken do not adequately minimize the person's access to information in the possession of the commissioner, the commissioner may ask the chairperson of the Crime and Misconduct Commission to review the chief executive officer's decision.

‘(6) A review conducted under this section—

- (a) must be conducted in private; and

- (b) must be conducted in the way decided by the chairperson; and
- (c) if the chairperson considers it appropriate, may be conducted on the papers, without hearing submissions from any person; and
- (d) is not a hearing or investigation of a kind the chairperson may hold under the *Crime and Misconduct Act 2001*.

‘(7) The chairperson’s decision on the review—

- (a) is final and conclusive; and
- (b) can not be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

‘(8) Information disclosed to the chief executive officer of the entity under subsection (3) must not be disclosed to a member of a selection panel or to anyone else, unless this or another Act permits or requires the disclosure.

‘5AA.14 Secrecy

‘(1) This section applies to a person who—

- (a) is, or has been—
 - (i) a person engaged by the service; or
 - (ii) a selection panel member; and
- (b) in that capacity acquired relevant information about someone else.

‘(2) The person must not disclose the information to anyone else.

Maximum penalty—100 penalty units or 2 years imprisonment.

‘(3) Subsection (2) does not apply to the disclosure of information about a person, if—

- (a) the disclosure—
 - (i) is to a police officer, a public service employee in the service, or a selection panel member, for the purpose of

assessing the person's suitability to be, or continue to be, engaged by the service; or

- (ii) is with the person's consent; or
- (iii) is of information that is relevant to an existing investigation of an offence; or
- (iv) is for a proceeding started because of an investigation mentioned in subparagraph (iii); or
- (v) is information the person may disclose to a person who is entitled to ask for it under another Act; or

Example for subparagraph (v)—

Family Services Act 1987, part 4.²⁸

- (b) the information discloses evidence of the commission or suspected commission of an offence and an investigation is started or facilitated because of the information.

'(4) Also, a person involved in any way in anything done under this part can not be compelled to produce to a court any document kept, or to disclose to a court any information obtained, because of the doing of the thing.

'(5) Other than to the extent the *Police Powers and Responsibilities Act 2000*, section 454²⁹ applies to the document or information, subsection (4) does not affect the operation of the *Judicial Review Act 1991*.

'(6) In this section—

“disclose”, in relation to information about a person, includes give access to information about a person.

“selection panel member” means a member of a panel formed to make a recommendation to the commissioner about a person's engagement by the service.

28 *Family Services Act 1987*, part 4 (Criminal histories of persons engaged by the department)

29 *Police Powers and Responsibilities Act 2000*, section 454 (Protection of methodologies)

‘5AA.15 Guidelines for dealing with relevant information

‘(1) The commissioner must make guidelines, consistent with this part, for dealing with relevant information obtained by the commissioner under this part.

‘(2) The purpose of the guidelines is to ensure—

- (a) natural justice is afforded to the persons about whom the information is obtained; and
- (b) only relevant information is used in assessing the persons’ suitability to be, or continue to be, engaged by the service; and
- (c) decisions about the suitability of persons, based on the information, are made in a consistent way.

‘(3) The commissioner must give a copy of the guidelines, on request, to a person seeking to be engaged, or engaged, by the service.’

33 Insertion of new pt 11, div 1 hdg

Part 11, before section 11.1—

insert—

‘Division 1—Transitional provisions for Police Service Administration Act 1990’.

34 Insertion of new pt 11, div 2

Part 11, after section 11.2—

insert—

‘Division 2—Transitional provision to assist in interpretation

‘11.3 Relevant information

‘The commissioner is taken always to have had power to inquire into a person’s criminal history and to take into account relevant information for deciding whether the person is suitable to be engaged, or to continue to be engaged, by the service.

‘11.4 Amendment of regulation by Police Powers and Responsibilities and Other Legislation Amendment Act 2003 does not affect powers of Governor in Council

‘The amendment of the *Police Service Administration Regulation 1990* by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2003* does not affect the power of the Governor in Council to further amend the regulation or to repeal it.’.

35 Insertion of new sch

After part 11—

insert—

‘SCHEDULE

‘RELEVANT INFORMATION

section 1.4, definition “relevant information”

Information about police officers, recruits and applicants to become police officers or recruits

1. Information in a database kept by the CrimTrac Agency about—

- the person’s criminal history
- cautions or warnings administered or given to the person
- the person’s involvement in acts of domestic violence in Queensland or elsewhere and any orders made against the person
- whether the person has had a weapons licence suspended or cancelled.

2. Information in the database kept by the commissioner and known as Polaris about—

- the person’s criminal history
- the person’s traffic history
- warrants issued in relation to the person

-
- cautions or warnings administered or given to the person
 - whether the person is a person of interest in Queensland or interstate
 - address checks for the person
 - the person's driver licence details.
- 3.** Information in a QPS database kept by the commissioner about whether the person is a person of interest because, for example, the person is a suspect, an offender, a missing person, a complainant, or a witness.
- 4.** The complete record in a database kept by the commissioner of any of the following—
- any incidents, including traffic incidents, involving the person
 - any offences involving the person
 - any complaints involving the person
 - the person's domestic violence history
 - the person's drug history
 - the person's arrest history
 - any detention of the person in custody
 - any prosecutions started against the person.
- 5.** Information about the person supplied to the commissioner by another police service, whether based on a request made after a search of a database kept by the CrimTrac Agency in relation to a person or because of information given by the person.
- 6.** Information about the person supplied to the commissioner by Interpol.
- 7.** If the person is a recommended appointee to a position, information supplied to the commissioner by a police officer in relation to a person.
- 8.** Information about the person kept in a database of criminal intelligence, whether the database is kept by the commissioner or is one to which the commissioner has access.
- 9.** Information about the person that is supplied to the commissioner by the Crime and Misconduct Commission.

10. Information about the person that is supplied to the commissioner by the department within which the *Corrective Services Act 2000* is administered.

11. Information about the person in the possession of the commissioner because of inquiries made by the unit of the service known as the Ethical Standards Command.

12. Information about the person supplied by the Australian Defence Force (“ADF”) about the following if the person is serving, or has served, as a member of ADF and is an applicant to become a police officer—

- checks made in relation to the person
- the person’s conduct as a member of the ADF
- the person’s medical history.

13. Information about the person supplied to the commissioner by a police force or service of another State, the Commonwealth, or another country, about the following if the person is serving, or has served, as a police officer in that jurisdiction and is an applicant to become a police officer—

- checks made in relation to the person
- the person’s conduct as a police officer
- the person’s medical history.

Information about staff members, applicants to become staff members, volunteers and students on work experience

1. Information in a database kept by the CrimTrac Agency about—

- the person’s criminal history
- cautions or warnings administered or given to the person
- the person’s involvement in acts of domestic violence in Queensland or elsewhere and any orders made against the person
- any known alias of the person.

2. Information in QPS database kept by the commissioner about—

- the person’s criminal history

-
- if the person is nominated for appointment to a position that involves significant driving duties—the person’s Queensland traffic history
 - warrants issued in relation to the person
 - cautions or warnings administered or given to the person
 - whether the person is a person of interest in Queensland or interstate.
3. Information in a database, other than the database known as Polaris, kept by the commissioner about—
- the person’s criminal history
 - cautions administered to the person in Queensland
 - charges laid against the person in Queensland
 - whether the person is wanted for questioning
 - any known alias of the person.
4. Information about the person supplied to the commissioner by a declared law enforcement agency about the following if the person has lived for an extensive period outside Queensland—
- charges laid against the person that have not been decided, dismissed or withdrawn
 - any known alias of the person.
5. Information about the person kept in a database of criminal intelligence, whether the database is kept by the commissioner or is one to which the commissioner has access.
6. Information about the person, if the person was employed in a unit of public administration or a local government within the last 10 years, that is supplied to the commissioner by the Crime and Misconduct Commission.
7. For former employees of the service, information in the possession of the commissioner because of inquiries made by the unit of the service known as the Ethical Standards Command.
8. Information in the possession of the commissioner and kept in the index known as the Drug Index.

Persons performing, or seeking to perform functions, for the service under a contract for services

1. Information in a database kept by the CrimTrac Agency about—

- the person's criminal history
- any warrants in relation to the person, in Queensland or interstate, that are outstanding
- the person's involvement in acts of domestic violence in Queensland or elsewhere and any orders made against the person
- any restraining orders made against the person
- any known alias of the person.

2. Information in the database kept by the commissioner and known as Polaris about—

- the person's Queensland criminal history
- the person's traffic history
- warrants issued in relation to the person
- cautions or warnings administered or given to the person
- whether the person is a person of interest in Queensland or interstate.

3. Information in a QPS database kept by the commissioner about the person's criminal history, the person's cautions or charges, and whether the person is wanted for questioning or has any aliases.

External service providers

- 1. Information about the external service provider's criminal history.'**

**PART 10—AMENDMENT OF POLICE SERVICE
ADMINISTRATION REGULATION 1990**

36 Regulation amended in pt 10

This part amends the *Police Service Administration Regulation 1990*.

37 Insertion of new s 10.2

After section 10.1—

insert—

‘10.2 External service providers

‘Each of the following is an external service provider for the Act, section 1.4, definition “external service provider”—

- (a) for the department within which the *Queensland Treasury Corporation Act 1988* is administered—the unit known as CorpTech;
- (b) for the department within which the Criminal Code is administered—the unit known as PartnerOne.’.

PART 11—AMENDMENT OF PROSTITUTION ACT 1999**38 Act amended in pt 11**

This part amends the *Prostitution Act 1999*.

39 Amendment of s 91 (Prostitute providing sexual intercourse or oral sex without a prophylactic)

(1) Section 91(1) and (2), ‘, at a licensed brothel,’—

omit.

(2) Section 91(3), ‘at a licensed brothel’—

omit.

(3) Section 91, as amended—

renumber as section 77A and *relocate* to part 6, division 1, after section 77.

40 Amendment of s 101 (Functions of Authority)

(1) Section 101(g)—

omit, insert—

‘(g) to liaise with the police service and other agencies prescribed under a regulation with a view to helping them in carrying out their functions in relation to prostitution;’.

(2) Section 101(j)—

omit, insert—

‘(j) to advise the Minister about ways of promoting and coordinating programs that—

(i) promote sexual health care; or

(ii) help prostitutes to leave prostitution; or

(iii) divert minors and other vulnerable persons from prostitution, especially opportunistic prostitution; or

(iv) raise awareness in prostitutes, judicial officers, police, community workers and the community about issues relating to prostitution;

(k) to advise the Minister about the development of codes of practice for licensed brothels.’.

41 Amendment of s 102 (Membership)

(1) Section 102(1), ‘6’—

omit, insert—

‘8’.

(2) Section 102(1)—

insert—

‘(g) 2 persons who, in the Minister’s opinion, are qualified to represent community interests.’.

(3) Section 102—

insert—

‘**(4)** A person mentioned in subsection (1)(g) must not be a person who has, or has had, a business interest in a brothel or in the provision of prostitution services.’.

42 Omission of pt 7, div 2

Part 7, division 2—

omit.

43 Amendment of pt 7, div 3 hdg

Part 7, division 3, heading, ‘3’—

omit, insert—

‘2’.

44 Amendment of s 133 (Disclosure of information)

(1) Section 133(3), definition “official”, paragraph (c)—

omit.

(2) Section 133(3), definition “official”, paragraphs (d) to (g)—

renumber as paragraphs (c) to (f).

45 Amendment of s 134 (Protection from liability)

(1) Section 134(3), definition “official”, paragraph (d)—

omit.

(2) Section 134(3), definition “official”, paragraphs (e) to (g)—

renumber as paragraphs (d) to (f).

46 Amendment of s 141 (Review of Act)

Section 141(3), from ‘, the Authority’—

omit, insert—

‘and the Authority’.

47 Amendment of sch 4 (Definitions)

Schedule 4, definition “Council”—

omit.

PART 11A—AMENDMENT OF PUBLIC SERVICE ACT 1996

47A Act amended in pt 11A

This part amends the *Public Service Act 1996*.

47B Insertion of new pt 9A

After section 114—

insert—

‘PART 9A—CRIMINAL HISTORY REPORTS IF ENGAGED TO PERFORM RELEVANT DUTIES

‘114A Definitions for pt 9A

‘In this part—

“criminal history” see the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 3.

“criminal history report” means a report given under section 114D to a chief executive by the commissioner of the police service about the criminal history of a person.

“engage”, a person, includes any of the following—

- (a) appoint, employ, promote, redeploy or second the person within or to a department;
- (b) allow the person to participate in a work performance arrangement or an interchange arrangement, within the meaning of section 82,³⁰ in a department;
- (c) start training the person in a department as an apprentice or trainee, within the meaning of the *Training and Employment Act 2000*, chapter 1, part 2.³¹

30 Section 82 (Work performance and interchange arrangements)

31 *Training and Employment Act 2000*, chapter 1 (Preliminary), part 2 (Definitions and basic concepts)

“**relevant duties**” means the particular duties in a department in relation to which the chief executive of the department decides, under section 114C(1), it may be necessary to have regard to the criminal history of anyone engaged to perform those duties to ensure the person so engaged is suitable to perform them.

‘114B Relationship of part with other laws

‘(1) This part does not limit any other law under which the criminal history of a person may be obtained, including any other part of this Act.

‘(2) Also, this part is subject to the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

‘114C Chief executive may decide to obtain criminal history

‘(1) This section applies if the chief executive of a department decides, under a directive issued for this part, that, because of the nature of particular duties to be performed in the department, it may be necessary to have regard to the criminal history of anyone engaged to perform those duties to ensure the person so engaged is suitable to perform them.

‘(2) When the chief executive proposes to engage a person to perform the relevant duties, the chief executive may, under a directive issued for this part, ask the person for written consent for the chief executive to obtain the person’s criminal history.

‘(3) Subsection (2) applies to a person even if the person is a public service employee at the time the chief executive proposes to engage the person to perform the relevant duties.

‘114D Obtaining criminal history with consent

‘(1) If a person gives written consent under section 114C(2) to obtain the person’s criminal history, the chief executive may ask the commissioner of the police service for a written report about the person’s criminal history.

‘(2) Subject to subsection (3), the commissioner of the police service must give the report to the chief executive.

‘(3) The duty imposed on the commissioner of the police service to comply with the request applies only to information in the commissioner’s possession or to which the commissioner has access.

‘114E Assessment of suitability using criminal history report and subsequent destruction of the report

‘(1) In making an assessment about the person’s suitability for engagement to perform the relevant duties after obtaining a criminal history report about the person, the chief executive must, under a directive issued for this part, consider the person’s criminal history.

‘(2) If, after making the assessment mentioned in subsection (1), the person’s criminal history report is no longer required to be kept under a directive issued for this part, the chief executive must destroy the report and any other document required by the directive to be destroyed.

‘114F If person does not consent to obtaining criminal history

‘If a person does not consent to the chief executive obtaining the person’s criminal history, the chief executive is not required to consider, or further consider, the person for engagement to perform the relevant duties.

‘114G Confidentiality

‘(1) This section applies to a person who—

- (a) is, or has been, a public service employee in a department or a selection panel member; and
- (b) in that capacity acquired information, or gained access to a document, under this part about someone else’s criminal history, including, for example, a criminal history report.

‘(2) The person must not disclose the information, or give access to the document, to anyone else.

Maximum penalty—100 penalty units.

‘(3) Subsection (2) does not apply to the disclosure of information, or giving of access to a document, about a person—

- (a) to a public service employee in the department or a selection panel member, for the purpose of assessing the person’s suitability to be engaged to perform the relevant duties in relation to which the criminal history report about the person was obtained; or
- (b) with the person’s consent; or

- (c) if the disclosure or giving of access is otherwise required under an Act.

‘(4) In this section—

“**selection panel member**” means a member of a panel formed to make a recommendation to the chief executive of a department about engaging a person to perform relevant duties in the department.

‘114H Commissioner may issue a directive or guideline for this part

‘(1) For this part, the commissioner may issue directives and guidelines under section 34.³²

‘(2) Without limiting subsection (1) or section 34, a directive issued for this part must make provision for—

- (a) the circumstances in which a chief executive may decide that it is necessary to obtain the criminal history of a person under section 114D; and
- (b) a reasonable opportunity to be given to a person to make written representations about a criminal history report obtained about the person before an adverse decision relating to the person is made.

‘(3) In this section—

“**adverse decision**”, relating to a person, means a decision about the person’s suitability for engagement to perform the relevant duties in relation to which a criminal history report was obtained, other than a decision that the person is suitable for engagement to perform the relevant duties.’

47C Insertion of new pt 11, div 3

After section 145—

insert—

32 Section 34 (Rulings of industrial relations Minister and commissioner)

‘Division 3—Transitional provision for the Police Powers and Responsibilities and Other Legislation Amendment Act 2003

‘146 Chief executive may ask for consent to obtain criminal history only if engagement is after the commencement

‘The chief executive may not, under section 114C,³³ ask a person for the person’s written consent to obtain a report of the person’s criminal history unless the chief executive proposes to engage the person to perform relevant duties after the commencement of this section.’

47D Amendment of sch 3 (Dictionary)

Schedule 3—

insert—

‘**“criminal history”**, for part 9A and section 146, see section 114A.

“criminal history report”, for part 9A, see section 114A.

“engage”, for part 9A and section 146, see section 114A.

“relevant duties”, for part 9A and section 146, see section 114A.’.

**PART 12—AMENDMENT OF VAGRANTS, GAMING
AND OTHER OFFENCES ACT 1931**

48 Act amended in pt 12

This part amends the *Vagrants, Gaming and Other Offences Act 1931*.

49 Amendment of pt 2 hdg

Part 2, heading, **‘DISORDERLY PERSONS’—**

omit, insert—

‘PROPERTY RELATED OFFENCES’.

33 Section 114C (Chief executive may decide to obtain criminal history)

50 Replacement of s 7 (Obscene, abusive language etc.)

Section 7—

omit, insert—

**‘PART 2A—QUALITY OF COMMUNITY USE OF
PUBLIC PLACES**

‘7 Object of pt 2A

‘This part has, as its object, ensuring, as far as practicable, members of the public may lawfully use and pass through public places without interference from unlawful acts of nuisance committed by others.

‘7AA Public nuisance

‘(1) A person must not commit a public nuisance offence.

Maximum penalty—10 penalty units or 6 months imprisonment.

‘(2) A person commits a public nuisance offence if—

(a) the person behaves in—

- (i) a disorderly way; or
- (ii) an offensive way; or
- (iii) a threatening way; or
- (iv) a violent way; and

(b) the person’s behaviour interferes, or is likely to interfere, with the peaceful passage through, or enjoyment of, a public place by a member of the public.

‘(3) Without limiting subsection (2)—

- (a) a person behaves in an offensive way if the person uses offensive, obscene, indecent or abusive language; and
- (b) a person behaves in a threatening way if the person uses threatening language.

‘(4) It is not necessary for a person to make a complaint about the behaviour of another person before a police officer may start a proceeding against the person for a public nuisance offence.

‘(5) Also, in a proceeding for a public nuisance offence, more than 1 matter mentioned in subsection (2)(a) may be relied on to prove a single public nuisance offence.

‘(6) As soon as practicable after 18 months after the commencement of this section, the Crime and Misconduct Commission must review the use of this section.

‘(7) The conduct of the review and the preparation of the report is a function of the Crime and Misconduct Commission for the *Crime and Misconduct Act 2001*.

‘(8) In the course of preparing the report, the Crime and Misconduct Commission must consult with the Minister.

‘(9) The Crime and Misconduct Commission must give a copy of the report to the Speaker for tabling in the Legislative Assembly.

‘PART 2B—PUBLICATION OFFENCES’.

51 Insertion of new pt 2C hdg

After section 17—

insert—

‘PART 2C—PROTECTION FROM HABITUAL DRUNKARDS’.

52 Insertion of new pt 3A

After section 22A—

insert—

‘PART 3A—BODY PIERCING AND TATTOOING

‘23 Particular body piercing of minor prohibited

‘(1) A person must not, as part of a business transaction, perform body piercing to any part of—

- (a) the external genitalia of a female who is a minor; or
- (b) the penis or scrotal skin of a male who is a minor; or
- (c) the nipples of a minor.

Maximum penalty—

- (a) 40 penalty units or 6 months imprisonment; or
- (b) if the minor is an intellectually impaired person or the minor's decision-making capacity is impaired because of alcohol or a drug—80 penalty units or 1 year imprisonment.

‘(2) It is not a defence to a prosecution of a person for an offence against subsection (1) that the minor, or a parent or guardian of the minor, consented to the body piercing.

‘(3) In this section—

“body piercing”—

- (a) means the process of penetrating a person's skin or mucous membrane with a sharp instrument for the purpose of implanting jewellery or other foreign material through or into the skin or mucous membrane; and
- (b) does not include the process of piercing a person's ear or nose with a closed piercing instrument that—
 - (i) does not come into contact with the person's skin or mucous membrane; and
 - (ii) is fitted with a sterilised single-use disposable cartridge containing sterilised jewellery and fittings.

Examples of foreign material—

1. A ring.
2. A bar.
3. A pin.
4. A stud.

“genitalia” see the Criminal Code, section 1.³⁴

“intellectually impaired person” see the Criminal Code, section 1.

‘24 Tattooing minor prohibited

‘(1) A person must not perform tattooing on a minor.

Maximum penalty—40 penalty units or 6 months imprisonment.

‘(2) In this section—

“**tattooing**”—

- (a) means the process of penetrating a person’s skin and inserting into it colour pigments to make a permanent mark, pattern or design on the skin; and
- (b) includes any process that penetrates the skin and inserts into it colour pigments to make a semipermanent mark, pattern or design on the skin including for example—
 - (i) the process known as cosmetic tattooing; or
 - (ii) the process for applying semipermanent make-up.’.

53 Insertion of new s 37D

Part 4, after section 37C—

insert—

‘37D Sale of potentially harmful things

‘(1) A person (the “**seller**”) must not sell a potentially harmful thing to another person if the seller knows or believes, on reasonable grounds, that the other person—

- (a) intends to inhale or ingest the thing; or
- (b) intends to sell the thing to another person for inhalation or ingestion whether by that person or someone else.

Maximum penalty—

- (a) for a first offence—25 penalty units or 3 months imprisonment; or
- (b) for a second or later offence—50 penalty units or 1 year imprisonment.

‘(2) For the purposes of the *Anti-Discrimination Act 1991*, section 46,³⁵ a seller is not to be taken to discriminate against a person only because the seller refuses to sell a potentially harmful thing to the person because of subsection (1).

‘(3) In this section—

“potentially harmful thing”—

- (a) means a thing a person may lawfully possess that is or contains a substance that may be harmful to a person if ingested or inhaled; and

Example—

1. Glue.
2. Paint.
3. A solvent.

- (b) includes methylated spirits; and

- (c) does not include a thing intended by its manufacturer to be inhaled or ingested by a person using it.

“sell” includes—

- (a) sell by wholesale, retail or auction; and
- (b) supply in trade or commerce or under an arrangement; and
- (c) agree, attempt or offer to sell; and
- (d) keep or expose for sale; and
- (e) cause or permit to be sold.’

35 *Anti-Discrimination Act 1991*, section 46 (Discrimination in good and services area)

PART 13—AMENDMENT OF WEAPONS ACT 1990

Division 1—Preliminary

54 Act amended in pt 13

This part amends the *Weapons Act 1990*.

Division 2—Amendments commencing on assent

55 Amendment of s 15 (Authorised officer decides application)

Section 15(4)(a), from ‘including’—

omit, insert—

‘including, but not limited to—

- (i) conditions limiting the use or possession of a weapon; or
- (ii) conditions prescribed under a regulation and applying to the weapon; or
- (iii) any other conditions the authorised officer considers appropriate in the particular circumstances; or’.

56 Amendment of s 35 (Acquisition of weapons)

Section 35(1), penalty, paragraph (c), ‘or B’—

omit, insert—

‘, B or M’.

57 Amendment of s 49A (Authority given by licence)

(1) Section 49A(2), after ‘participation condition’—

insert—

‘, whether imposed by an authorised officer or prescribed under a regulation’.

(2) Section 49A(3)—

renumber as section 49A(4).

(3) Section 49A—

insert—

‘(3) If a condition is prescribed under a regulation for a category of weapon—

- (a) the condition applies to all weapons of the category, whether licensed before or after the day the condition has effect; and
- (b) the licence is taken to have been amended to include the condition.’.

58 Amendment of s 57 (Particular conduct involving a weapon in a public place prohibited)

(1) Section 57(1), definition “weapon”, paragraph (a), after ‘crossbow’—

insert—

‘or sword’.

(2) Section 57(1), definition “weapon”, paragraph (d), after ‘slingshot’—

insert—

‘or shanghai’.

(3) Section 57—

insert—

‘(5) It is a reasonable excuse for subsection (2) to carry a sword exposed to view in a public place—

- (a) to perform a lawful activity, duty or employment; or
- (b) to participate in a lawful entertainment, recreation or sport; or
- (c) to exhibit the sword; or
- (d) for use for a lawful purpose.

Example for paragraph (a)—

A person may carry a sword for ceremonial purposes at an official function attended by the Governor.

Example for paragraph (b)—

A person may carry a sword as an accessory while playing in a pipe band.

Example for paragraph (c)—

A person who collects swords may exhibit them at a fete or another public gathering.

Example for paragraph (d)—

A person may carry a sword as part of an official uniform the person is entitled to wear.

‘(6) It is not a reasonable excuse for subsection (2) or (3) to carry a weapon in a public place for self-defence purposes.

‘(7) In deciding what is a reasonable excuse for subsection (2) or (3), regard may be had, among other things, to whether the way the weapon is carried, or when and where it is carried, would cause a reasonable person concern that he or she, or someone else in the vicinity, may be threatened or harmed.’.

59 Amendment of s 58 (Dangerous conduct with weapon prohibited generally)

(1) Section 58(1), definition “weapon”, paragraph (a), after ‘crossbow’—

insert—

‘or sword’.

(2) Section 58(1), definition “weapon”, paragraph (e), after ‘slingshot’—

insert—

‘or shanghai’.

60 Amendment of s 59 (Possession or use of weapon under the influence of liquor or a drug prohibited)

(1) Section 59(1), definition “weapon”, paragraph (a), after ‘crossbow’—

insert—

‘or sword’.

(2) Section 59(1), definition “weapon”, paragraph (b), after ‘slingshot’—

insert—

‘or shanghai’.

(3) Section 59(1), definition “weapon”, paragraphs (b) and (c)—
renumber as paragraphs (c) and (d).

(4) Section 59(1), definition “weapon”—

insert—

‘(b) a replica of a thing mentioned in paragraph (a); and’.

61 Amendment of s 73 (Dealer etc. to require information)

Section 73(a), ‘; or’—

omit, insert—

‘; and’.

62 Amendment of s 132 (Conditions for concealable firearms licence)

Section 132(2), ‘(d) or (e),’—

omit.

63 Insertion of new pt 8, div 3

After section 182—

insert—

***‘Division 3—Transitional provisions for Police Powers and
Responsibilities and Other Legislation Amendment Act 2003***

‘183 Transitional provision about authorised officers powers

‘It is declared that an authorised officer has, and always has had, power to impose a condition on a licence issued under this Act that restricts, or has the effect of restricting, the possession or use of a weapon to a registered weapon of a particular category.

‘184 Amendment of regulation by Police Powers and Responsibilities and Other Legislation Amendment Act 2003 does not affect powers of Governor in Council

‘The amendment of the *Weapons Regulation 1996* and the *Weapons (Categories) Regulation 1997* by the *Police Powers and Responsibilities and Other Legislation Amendment Act 2003* does not affect the power of the Governor in Council to further amend the regulations or to repeal them.’.

64 Amendment of sch 1 (Subject matter for regulations)

(1) Schedule 1, item 2A, after ‘H’—

insert—

‘, M’.

(2) Schedule 1, item 15, ‘pistol’—

omit, insert—

‘shooting’.

65 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

‘**“shanghai”** means a Y-shaped device that—

- (a) has something with elastic properties fixed to it; and
- (b) is capable of being used to propel a projectile.

“sword” means a thing consisting of a long, straight or curved blade, fixed in a hilt or handle, the blade of which is either—

- (a) pointed; or
- (b) sharp-edged on one or both sides.

Example—

- 1. A rapier.
- 2. A broadsword.

“unlawful” means without lawful justification or excuse.’.

(2) Schedule 2, definition “firearm”, paragraph (g), ‘slingshot’—
omit, insert—
‘slingshot, shanghai or sword’.

Division 3—Amendments commencing after assent

66 Amendment of s 15 (Authorised officer decides application)

(1) Section 15(4)(a)(iii)—
renumber as section 15(4)(a)(iv).

(2) Section 15(4)(a)—
insert—

‘(iii) for a licence authorising possession of a category M crossbow—conditions requiring the licensee within 7 days to permanently mark on the crossbow an identifying serial number fixed by the authorised officer for the crossbow; or’.

67 Amendment of s 33 (Interstate residents moving to Queensland)

(1) Section 33(1), after ‘weapon’—
insert—

‘or a category M crossbow’.

(2) Section 33(3)(a), after ‘weapon’—
omit, insert—

‘or a category M crossbow’.

68 Amendment of s 36 (Sale or disposal of weapons)

Section 36(1), penalty, paragraph (c), after ‘weapon’—
insert—

‘or a category M crossbow’.

69 Amendment of s 49 (Commissioner to maintain firearms register)

(1) Section 49(2)(b), before ‘the type’—

insert—

‘for a firearm other than a category M crossbow—’.

(2) Section 49(2)(g)—

renumber as section 49(2)(h).

(3) Section 49(2)—

insert—

‘(g) for a category M crossbow—the identifying serial number of the crossbow;’.

(4) Section 49(6), definition “firearm”—

omit, insert—

‘**“firearm”** includes—

(a) a category H weapon that is permanently inoperable; and

(b) a category M crossbow.’.

69A Amendment of s 52 (Physical possession and use of weapon sometimes allowed for the purpose of training a minor)

(1) Section 52(1) and (2), after ‘category A or B weapon’—

insert—

‘or a category M crossbow’.

(2) Section 52(2), after ‘category A or B weapons’—

insert—

‘or category M crossbows’.

70 Amendment of s 56 (Discharge of weapon on private land without owner’s consent prohibited)

Section 56(1), definition “weapon”, ‘, crossbow’—

omit.

71 Amendment of s 57 (Particular conduct involving a weapon in a public place prohibited)

Section 57(1), definition “weapon”, paragraph (a), ‘, crossbow’—
omit.

72 Amendment of s 58 (Dangerous conduct with weapon prohibited generally)

Section 58(1), definition “weapon”, paragraph (a), ‘, crossbow’—
omit.

73 Amendment of s 59 (Possession or use of weapon under the influence of liquor or a drug prohibited)

Section 59(1), definition “weapon”, paragraph (a), ‘, crossbow’—
omit.

74 Amendment of s 65 (Unlawful trafficking in weapons)

Section 65, penalty, paragraph (b), after ‘weapon’—
insert—
‘, a category M crossbow’.

75 Amendment of s 68 (Dealers to be licensed)

Section 68(1), penalty, paragraph (c), after ‘weapon’—
insert—
‘or a category M crossbow’.

76 Amendment of s 69 (Armourers to be licensed)

Section 69(1), penalty, paragraph (c), after ‘weapon’—
insert—
‘or a category M crossbow’.

77 Insertion of new ss 185–186

After section 184—

insert—

‘185 Transitional provision about category M crossbows

‘(1) A person who applies for a licence for a category M crossbow in the person’s lawful possession immediately before the crossbow commencement day is taken to have adequate knowledge of safety practices for the use, storage and maintenance of the weapon.

‘(2) In subsection (1)—

“**crossbow commencement day**” means the day the *Police Powers and Responsibilities and Other Legislation Amendment Act 2003*, part 13, division 3 commences.³⁶

‘186 Transitional regulation-making power

‘(1) A regulation (a “**transitional regulation**”) may make provision of a saving or transitional nature for category M crossbows for which—

- (a) it is necessary to make provision to allow or facilitate the doing of anything to achieve the transition from the operation of this Act before the commencement of this section to the operation of this Act after the commencement; and
- (b) this Act does not make provision or sufficient provision.

‘(2) A transitional regulation may have retrospective operation to a day not earlier than the commencement.

‘(3) A transitional regulation must declare it is a transitional regulation.

‘(4) This section and any transitional regulation expire 1 year after the commencement.’

78 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

³⁶ *Police Powers and Responsibilities and Other Legislation Amendment Act 2003*, part 13 (Amendment of Weapons Act 1990), division 3 (Amendments commencing after assent)

insert—

‘**“category M crossbow”** means a crossbow that is a category M weapon under the *Weapons (Categories) Regulation 1997*, section 7A(g).’.

(2) Schedule 2, definition “shooting club”, after ‘of target shooting’—

insert—

‘, whether or not involving the use of a category M crossbow’.

PART 14—AMENDMENT OF WEAPONS REGULATION 1996

79 Regulation amended in pt 14

This part amends the *Weapons Regulation 1996*.

80 Amendment of s 25A (Miscellaneous weapons licence)

(1) Section 25A(1)(b), ‘7A(g) or (i)’—

omit, insert—

‘7A(h) or (j)’.

(2) Section 25A(1)(c), ‘7A(h) or (l)’—

omit, insert—

‘7A(i) or (m)’.

(3) Section 25A(1)((b) and (c), as amended—

renumber as section 25A(1)(c) and (d).

(4) Section 25A(1)—

insert—

‘(b) a category M crossbow; or’.

(5) Section 25A(4) to (8)—

renumber as section 25A(6) to (10).

(6) Section 25A—

insert—

‘(4) A miscellaneous weapons licence may only be issued for a category M crossbow, if an authorised officer is satisfied the applicant for the licence—

- (a) has the written permission of a landholder to engage in recreational shooting on the landholder’s land; or
- (b) is a current member of any of the following—
 - (i) a club that is, or is affiliated with, an organisation that is recognised by the commissioner as being a State or national archery organisation;
 - (ii) a club that is, or is affiliated with, a State, national or international historical or military re-enactment organisation;
 - (iii) a club that is a genuine historical or military re-enactment organisation that gives training in the use of category M crossbows.

‘(5) If the applicant applied for a miscellaneous weapons licence for a category M crossbow, the licence authorises the licensee to possess and use the type of category M crossbow stated on the licence, but only for the purpose stated on the licence.’.

81 Amendment of sch 1 (Fees)

Schedule 1, item 2—

insert—

‘(m) miscellaneous weapons licence. 10.00’.

PART 15—AMENDMENT OF WEAPONS (CATEGORIES) REGULATION 1997

82 Regulation amended in pt 15

This part amends the *Weapons (Categories) Regulation 1997*.

83 Amendment of s 7A (Category M weapons)

(1) Section 7A(f), ‘any crossbow’—

omit, insert—

‘any pistol crossbow’.

(2) Section 7A(g) to (m)—

renumber as section 7A(h) to (n).

(3) Section 7A—

insert—

‘(g) any crossbow designed to be discharged by the use of 2 hands that, when discharged, is capable of causing damage or injury to property or capable of causing bodily harm;’.

SCHEDULE**MINOR AMENDMENTS OF POLICE POWERS AND
RESPONSIBILITIES ACT 2000**

section 3

1 Section 59E, ‘person in control’—*omit, insert—*

‘driver’.

2 Section 59F(2)(d), ‘person in control’—*omit, insert—*

‘driver’.

3 Section 59F(2)(d), ‘that person’—*omit, insert—*

‘the driver’.

4 Section 59K, ‘person in control’—*omit, insert—*

‘driver’.

5 Section 59P(2), ‘person in control’—*omit, insert—*

‘driver’.

SCHEDULE (continued)

6 Section 59P(3) and (7), ‘person’—*omit, insert—*

‘driver’.

7 Section 59P(6), ‘person’, first and last mention—*omit, insert—*

‘driver’.

8 Section 59P(6), ‘person’s’—*omit, insert—*

‘driver’s’.

9 Section 59R, ‘person’—*omit, insert—*

‘driver’.

10 Section 59U(1), ‘The owner’—*omit, insert—*

‘Despite section 59I(5) and 59IA(5), the owner’.

11 Section 451(1), from ‘impounding’ to ‘division 2’—*omit, insert—*

‘mentioned in section 59H(6) or 59HA(6)’.