

Queensland



**TERRORISM (COMMUNITY
SAFETY) AMENDMENT ACT
2004**

Act No. 8 of 2004

Queensland



**TERRORISM (COMMUNITY SAFETY)
AMENDMENT ACT 2004**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	6
2	Commencement	6
PART 2—AMENDMENT OF CRIME AND MISCONDUCT ACT 2001		
3	Act amended in pt 2	6
4	Insertion of new ch 1, pt 4, div 5	6
	<i>Division 5—Terrorist acts</i>	
	22A Meaning of “terrorist act”	6
5	Amendment of s 121 (Surveillance warrant applications)	8
6	Amendment of s 123 (Consideration of application for surveillance warrant)	9
7	Amendment of s 124 (Issue of surveillance warrant)	9
8	Amendment of s 157 (Application of pt 8)	9
9	Amendment of s 160 (Consideration of application)	10
10	Amendment of s 162 (What additional powers warrant must state)	10
11	Amendment of s 165 (Powers under additional powers warrant)	10
12	Amendment of sch 2 (Dictionary)	10
PART 3—AMENDMENT OF CRIMINAL CODE		
13	Act amended in pt 3	11
14	Insertion of new s 469A	11
	469A Sabotage and threatening sabotage	11

**PART 4—AMENDMENT OF DISTRICT COURT OF
QUEENSLAND ACT 1967**

15	Act amended in pt 4.	13
16	Amendment of s 61 (Limited criminal jurisdiction if maximum penalty more than 14 years).	13

**PART 5—AMENDMENT OF FREEDOM OF INFORMATION
ACT 1992**

17	Act amended in pt 5.	13
18	Amendment of s 32 (Deletion of exempt matter)	14
19	Amendment of s 35 (Information as to existence of certain documents) . . .	14
20	Amendment of s 42 (Matter relating to law enforcement or public safety) .	14
21	Insertion of new s 42A	14
	42A Matter relating to national or State security.	14
22	Amendment of s 71 (Functions of commissioner)	15
23	Amendment of s 84 (Review of Minister’s certificates)	15
24	Amendment of s 87 (Commissioner to ensure non-disclosure of certain matter)	15
25	Amendment of s 90 (Delegation)	16
26	Insertion of new pt 8	16

**PART 8—TRANSITIONAL PROVISION FOR TERRORISM
(COMMUNITY SAFETY) AMENDMENT ACT 2004**

111	Matter relating to national or State security.	16
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**PART 6—AMENDMENT OF POLICE POWERS AND
RESPONSIBILITIES ACT 2000**

27	Act amended in pt 6.	16
28	Amendment of s 124 (Surveillance warrant applications)	16
29	Amendment of s 126 (Consideration of application for surveillance warrant)	17
30	Amendment of s 127 (Issue of surveillance warrant)	17
31	Amendment of s 128 (What surveillance warrant must state)	18
32	Insertion of new s 147A	18
	147A Meaning of “terrorist act” and “terrorism” for div 6.	18
33	Amendment of s 148 (Covert search warrant applications)	20
34	Amendment of s 150 (Consideration of application)	20
35	Amendment of s 151 (Issue of covert search warrant)	20

36	Amendment of s 152 (What covert search warrant must state)	21
37	Amendment of s 155 (Powers under covert search warrant)	21
38	Amendment of sch 4 (Dictionary)	21
PART 7—AMENDMENT OF POLICE SERVICE ADMINISTRATION ACT 1990		
39	Act amended in pt 7	21
40	Insertion of new s 5.17	21
	5.17 Authorisation of non-State police officers	22
PART 8—AMENDMENT OF WEAPONS ACT 1990		
41	Act amended in pt 8	24
42	Amendment of s 2 (Application of Act)	24
PART 9—AMENDMENT OF WITNESS PROTECTION ACT 2000		
43	Act amended in pt 9	24
44	Replacement of pt 3 hdg (Protecting identity of protected witnesses and former protected witnesses)	24
45	Insertion of new s 20A	24
	20A New identity for witness protection officer	25
46	Amendment of s 36 (Offence of disclosures about protected witnesses) . . .	25

Queensland



**Terrorism (Community Safety) Amendment
Act 2004**

Act No. 8 of 2004

**An Act to amend particular Acts to increase community safety, and for
other purposes**

[Assented to 20 May 2004]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Terrorism (Community Safety) Amendment Act 2004*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF CRIME AND MISCONDUCT ACT 2001

3 Act amended in pt 2

This part amends the *Crime and Misconduct Act 2001*.

4 Insertion of new ch 1, pt 4, div 5

Chapter 1, part 4, after division 4—

insert—

‘Division 5—Terrorist acts

‘22A Meaning of “terrorist act”

‘(1) An action is a **“terrorist act”** if—

(a) it does any of the following—

(i) causes serious harm that is physical harm to a person;

(ii) causes serious damage to property;

- (iii) causes a person's death;
 - (iv) endangers the life of someone other than the person taking the action;
 - (v) creates a serious risk to the health or safety of the public or a section of the public;
 - (vi) seriously interferes with, seriously disrupts, or destroys an electronic system; and
- (b) it is done with the intention of advancing a political, religious or ideological cause; and
- (c) it is done with the intention of—
- (i) coercing, or influencing by intimidation, the government of the Commonwealth, a State or a foreign country, or of part of a State or a foreign country; or
 - (ii) intimidating the public or a section of the public.

‘(2) A threat of action is a **“terrorist act”** if—

- (a) the threatened action is likely to do anything mentioned in subsection (1)(a)(i) to (vi); and
- (b) the threat is made with the intentions mentioned in subsection (1)(b) and (c).

‘(3) However, an action or threat of action is not a **“terrorist act”** if the action or threatened action—

- (a) is advocacy, protest, dissent or industrial action; and
- (b) is not intended—
 - (i) to cause serious harm that is physical harm to a person; or
 - (ii) to cause a person's death; or
 - (iii) to endanger the life of a person, other than the person taking the action; or
 - (iv) to create a serious risk to the health or safety of the public or a section of the public.

‘(4) A reference in this section to a person or property is a reference to a person or property wherever situated, within or outside the State (including within or outside Australia).

‘(5) In this section—

“**electronic system**” includes any of the following electronic systems—

- (a) an information system;
- (b) a telecommunications system;
- (c) a financial system;
- (d) a system used for the delivery of essential government services;
- (e) a system used for, or by, an essential public utility;
- (f) a system used for, or by, a transport system.

“**physical harm**” includes unconsciousness, pain, disfigurement, infection with a disease and physical contact with a person that the person might reasonably object to in the circumstances (whether or not the person was aware of it at the time).

“**public**” includes the public of another State or of a country other than Australia.

“**serious harm**” means harm, including the cumulative effect of any harm, that—

- (a) endangers, or is likely to endanger, a person’s life; or
- (b) is, or is likely to be, significant and longstanding.

“**threat**” includes a threat made by conduct, whether express or implied and whether conditional or unconditional.’.

5 Amendment of s 121 (Surveillance warrant applications)

(1) Section 121(5) to (7)—

renumber as section 121(6) to (8).

(2) Section 121—

insert—

‘(5) The place specified in the application (the “**relevant place**”) may be a public place and may be described by reference to a class of place.’.

6 Amendment of s 123 (Consideration of application for surveillance warrant)

(1) Section 123(b)(ii), ‘place’—

omit, insert—

‘relevant place’.

(2) Section 123(d), after ‘the relevant person’—

insert—

‘or the relevant place’.

7 Amendment of s 124 (Issue of surveillance warrant)

Section 124(1)—

omit, insert—

‘(1) After considering the application, the judge may issue a surveillance warrant for a period of not more than 30 days if satisfied there are reasonable grounds for believing—

- (a) the relevant person has been, is, or is likely to be, involved in the major crime or misconduct and is likely to be at the relevant place; or
- (b) evidence of the commission of the major crime or misconduct is likely to be obtained using a surveillance device at the relevant place.’.

8 Amendment of s 157 (Application of pt 8)

(1) Section 157, after ‘misconduct investigation’—

insert—

‘or a crime investigation relating to terrorism’.

(2) Section 157—

insert—

‘(2) In this section—

“**terrorism**” includes something that is—

- (a) preparatory to the commission of terrorism; or
- (b) undertaken to avoid detection of, or prosecution for, terrorism.’.

9 Amendment of s 160 (Consideration of application)

Section 160(a), after ‘misconduct’—

insert—

‘or terrorism’.

10 Amendment of s 162 (What additional powers warrant must state)

Section 162(b), after ‘misconduct’—

insert—

‘or terrorism’.

11 Amendment of s 165 (Powers under additional powers warrant)

Section 165(1)(c)—

omit, insert—

- ‘(c) power to require a person to give to the commission or officer 1 or more sworn affidavits or statutory declarations relating to the property of, financial transactions of, or movements of money or other assets by—
 - (i) for a misconduct investigation—a person holding an appointment in a unit of public administration or someone associated with the person holding the appointment; or
 - (ii) for a crime investigation relating to terrorism—a person being investigated or a suspected associate of the person being investigated.’.

12 Amendment of sch 2 (Dictionary)

(1) Schedule 2—

insert—

‘ **“relevant place”**, in relation to an application to a judge for a surveillance warrant, see section 121.

“terrorism” means criminal activity that involves a terrorist act.

“terrorist act” see section 22A.’.

(2) Schedule 2, definition “major crime”, paragraph (d)—

omit, insert—

‘(d) terrorism; or

(e) something that is—

(i) preparatory to the commission of criminal paedophilia, organised crime or terrorism; or

(ii) undertaken to avoid detection of, or prosecution for, criminal paedophilia, organised crime or terrorism.’.

PART 3—AMENDMENT OF CRIMINAL CODE

13 Act amended in pt 3

This part amends the Criminal Code.

14 Insertion of new s 469A

Before section 470—

insert—

‘469A Sabotage and threatening sabotage

‘**(1)** A person who wilfully and unlawfully destroys or damages a public facility with intent to cause—

(a) major disruption to government functions; or

(b) major disruption to the use of services by the public; or

(c) major economic loss;

is guilty of a crime.

Maximum penalty—25 years imprisonment.

‘(2) A person who threatens to commit sabotage is guilty of a crime.

Maximum penalty—14 years imprisonment.

‘(3) For subsection (2), a person threatens to commit sabotage if—

- (a) the person threatens to unlawfully destroy or damage a public facility; and
- (b) the threat is made with the intention of inducing in someone else a belief that the threat will be carried out; and
- (c) if the threat were to be carried out, the threatened destruction or damage would be likely to cause—
 - (i) major disruption to government functions; or
 - (ii) major disruption to the use of services by the public; or
 - (iii) major economic loss.

‘(4) A person can not be prosecuted for an offence against subsection (1) or (2) without a Crown Law Officer’s consent.

‘(5) In this section—

“**damage**”, a public facility, includes disrupt the operation or use of the facility.

“**government entity**” means—

- (a) the State; or
- (b) a State instrumentality, agency, authority or entity; or
- (c) a corporate entity established by an Act or that is of a description of a corporate entity provided for by an Act that, in either case, collects revenues or raises funds under the authority of an Act; or
- (d) a government owned corporation; or
- (e) another State, the Commonwealth, a local government or a local government of another State; or
- (f) another entity performing a government function.

“**government functions**” means functions of the State, another State, the Commonwealth, a local government or a local government of another State.

“**public facility**” means any of the following, whether publicly or privately owned—

- (a) premises or another place occupied by a government entity;
- (b) a public infrastructure facility, including—
 - (i) infrastructure for a water or sewerage service; and
 - (ii) a facility for supplying energy or fuel to the public; and
 - (iii) a facility for a telecommunication system; and
 - (iv) roads, railways, equipment, vehicles and other infrastructure for public transport; and
 - (v) other infrastructure for a community service;
- (c) a public place.’.

PART 4—AMENDMENT OF DISTRICT COURT OF QUEENSLAND ACT 1967

15 Act amended in pt 4

This part amends the *District Court of Queensland Act 1967*.

16 Amendment of s 61 (Limited criminal jurisdiction if maximum penalty more than 14 years)

Section 61(2)(b), ‘or 469’—

omit, insert—

‘, 469 or 469A’.

PART 5—AMENDMENT OF FREEDOM OF INFORMATION ACT 1992

17 Act amended in pt 5

This part amends the *Freedom of Information Act 1992*.

18 Amendment of s 32 (Deletion of exempt matter)

Section 32(a), '37 or 42'—

omit, insert—

'37, 42 or 42A'.

19 Amendment of s 35 (Information as to existence of certain documents)

Section 35(1) and (2), '37 or 42'—

omit, insert—

'37, 42 or 42A'.

20 Amendment of s 42 (Matter relating to law enforcement or public safety)

Section 42(1)(g)—

insert—

Example—

A safety report for a major hazard facility under the *Dangerous Goods Safety Management Act 2001*, section 47, may include exempt matter.'

21 Insertion of new s 42A

After section 42—

insert—

'42A Matter relating to national or State security

'(1) Matter is exempt matter if its disclosure could reasonably be expected to damage the security of the Commonwealth or a State.

'(2) For subsection (1), the matters relevant to the security of the Commonwealth include—

- (a) matters relating to detecting, preventing or suppressing activities, whether within or outside Australia, that are subversive of, or hostile to, the interests of the Commonwealth or a country allied or associated with the Commonwealth; and

- (b) the security of a communications system or cryptographic system of the Commonwealth or another country used for—
- (i) the defence of the Commonwealth or a country allied or associated with the Commonwealth; or
 - (ii) the conduct of the international relations of the Commonwealth.

‘(3) For subsection (1), the matters relevant to the security of a State include matters relating to detecting, preventing or suppressing activities, whether within or outside the State, that are subversive of, or hostile to, the interests of the State.

‘(4) A certificate signed by the Minister stating that specified matter would, if it existed, be exempt matter mentioned in subsection (1) establishes, subject to part 5,¹ that, if the matter exists, it is exempt matter under this section.’.

22 Amendment of s 71 (Functions of commissioner)

Section 71(2), ‘37 or 42’—

omit, insert—

‘37, 42 or 42A’.

23 Amendment of s 84 (Review of Minister’s certificates)

Section 84(1), ‘37 or 42’—

omit, insert—

‘37, 42 or 42A’.

24 Amendment of s 87 (Commissioner to ensure non-disclosure of certain matter)

Section 87(3), ‘37 or 42’—

omit, insert—

‘37, 42 or 42A’.

¹ Part 5 (External review of decisions)

25 Amendment of s 90 (Delegation)

Section 90, '37 or 42'—

omit, insert—

'37, 42 or 42A'.

26 Insertion of new pt 8

After part 7—

insert—

**'PART 8—TRANSITIONAL PROVISION FOR
TERRORISM (COMMUNITY SAFETY) AMENDMENT
ACT 2004**

'111 Matter relating to national or State security

'Section 42A applies in relation to an application under this Act for access to a document, or for the review of a decision under this Act about access to a document, whether the application was made before or after the commencement of that section.'

**PART 6—AMENDMENT OF POLICE POWERS AND
RESPONSIBILITIES ACT 2000**

27 Act amended in pt 6

This part amends the *Police Powers and Responsibilities Act 2000*.

28 Amendment of s 124 (Surveillance warrant applications)

(1) Section 124(5) to (7)—

renumber as section 124(6) to (8).

(2) Section 124—

insert—

‘(5) The place stated in the application (the “**relevant place**”) may be a public place and may be described by reference to a class of place.’.

29 Amendment of s 126 (Consideration of application for surveillance warrant)

(1) Section 126(b)(ii), ‘place’—

omit, insert—

‘relevant place’.

(2) Section 126(d), after ‘the relevant person’—

insert—

‘or the relevant place’.

30 Amendment of s 127 (Issue of surveillance warrant)

(1) Section 127(2) and (3)—

renumber as section 127(3) and (4).

(2) Section 127(1)—

omit, insert—

‘(1) After considering the application, the judge may issue a surveillance warrant for a period of not more than 30 days if satisfied there are reasonable grounds for believing—

- (a) the relevant person has been, is, or is likely to be, involved in the commission of an indictable offence and is likely to be at the relevant place; or
- (b) evidence of the commission of an indictable offence is likely to be obtained using a surveillance device at the relevant place.

‘(2) The warrant may authorise the use of a class A surveillance device only if the offence is a serious indictable offence.’.

(3) Section 127(4) (as renumbered), example, ‘*subsection 3(b)*’—

omit, insert—

‘*subsection 4(b)*’.

31 Amendment of s 128 (What surveillance warrant must state)

Section 128(f), ‘section 127(3)’—

omit, insert—

‘section 127(4)’.

32 Insertion of new s 147A

Chapter 4, part 2, division 6, before section 148—

insert—

‘147A Meaning of “terrorist act” and “terrorism” for div 6

‘(1) An action is a “terrorist act” if—

(a) it does any of the following—

(i) causes serious harm that is physical harm to a person;

(ii) causes serious damage to property;

(iii) causes a person’s death;

(iv) endangers the life of someone other than the person taking the action;

(v) creates a serious risk to the health or safety of the public or a section of the public;

(vi) seriously interferes with, seriously disrupts, or destroys an electronic system; and

(b) it is done with the intention of advancing a political, religious or ideological cause; and

(c) it is done with the intention of—

(i) coercing, or influencing by intimidation, the government of the Commonwealth, a State or a foreign country, or of part of a State or a foreign country; or

(ii) intimidating the public or a section of the public.

‘(2) A threat of action is a “terrorist act” if—

(a) the threatened action is likely to do anything mentioned in subsection (1)(a)(i) to (vi); and

(b) the threat is made with the intentions mentioned in subsection (1)(b) and (c).

‘(3) However, an action or threat of action is not a **“terrorist act”** if the action or threatened action—

- (a) is advocacy, protest, dissent or industrial action; and
- (b) is not intended—
 - (i) to cause serious harm that is physical harm to a person; or
 - (ii) to cause a person’s death; or
 - (iii) to endanger the life of a person, other than the person taking the action; or
 - (iv) to create a serious risk to the health or safety of the public or a section of the public.

‘(4) **“Terrorism”** is—

- (a) criminal activity that involves a terrorist act; or
- (b) something that is—
 - (i) preparatory to the commission of criminal activity that involves a terrorist act; or
 - (ii) undertaken to avoid detection of, or prosecution for, criminal activity that involves a terrorist act.

‘(5) A reference in this section to a person or property is a reference to a person or property wherever situated, within or outside the State (including within or outside Australia).

‘(6) In this section—

“electronic system” includes any of the following electronic systems—

- (a) an information system;
- (b) a telecommunications system;
- (c) a financial system;
- (d) a system used for the delivery of essential government services;
- (e) a system used for, or by, an essential public utility;
- (f) a system used for, or by, a transport system.

“physical harm” includes unconsciousness, pain, disfigurement, infection with a disease and physical contact with a person that the person might reasonably object to in the circumstances (whether or not the person was aware of it at the time).

“**public**” includes the public of another State or of a country other than Australia.

“**serious harm**” means harm, including the cumulative effect of any harm, that—

- (a) endangers, or is likely to endanger, a person’s life; or
- (b) is, or is likely to be, significant and longstanding.

“**threat**” includes a threat made by conduct, whether express or implied and whether conditional or unconditional.’.

33 Amendment of s 148 (Covert search warrant applications)

(1) Section 148(1), after ‘organised crime’—

insert—

‘or terrorism’.

(2) Section 148(2)(b), after ‘organised crime’—

insert—

‘or terrorism’.

34 Amendment of s 150 (Consideration of application)

Section 150(a) and (b), after ‘offence’—

insert—

‘or terrorism’.

35 Amendment of s 151 (Issue of covert search warrant)

Section 151(1), ‘there is, in or on a place, evidence of organised crime.’—

omit, insert—

‘evidence of organised crime or terrorism—

- (a) is at the place; or
- (b) is likely to be taken to the place within the next 72 hours.’.

36 Amendment of s 152 (What covert search warrant must state)

Section 152(b), after ‘issued’—

insert—

‘or details of the terrorism for which the warrant was issued’.

37 Amendment of s 155 (Powers under covert search warrant)

Section 155(e) and (f), after ‘warrant’—

insert—

‘or terrorism’.

38 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘ **“relevant place”**, in relation to an application to a judge for a surveillance warrant, see section 124.

“terrorism”, for chapter 4, part 2, division 6, see section 147A(4).

“terrorist act”, for chapter 4, part 2, division 6, see section 147A.’

PART 7—AMENDMENT OF POLICE SERVICE ADMINISTRATION ACT 1990

39 Act amended in pt 7

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

40 Insertion of new s 5.17

Part 5, after section 5.16—

insert—

‘5.17 Authorisation of non-State police officers

‘(1) This section applies if the commissioner reasonably believes—

- (a) a terrorist act has been committed or there is an imminent threat of a terrorist act; and
- (b) the help of a non-State police officer is urgently needed to enable the Queensland Police Service to continue to perform its functions effectively while responding to the terrorist act or threat; and
- (c) it is impracticable in the circumstances to appoint the officer as a special constable.

‘(2) The commissioner may authorise the non-State police officer to exercise the powers of a police officer under the *Police Powers and Responsibilities Act 2000* (the “**Police Act**”).

‘(3) The authorisation must name the non-State police officer.

‘(4) The authorisation—

- (a) may be limited to stated powers; and
- (b) may be limited to a stated time; and
- (c) may be given on conditions.

‘(5) The authorisation may be given orally or in writing but, if given orally, must be put in writing as soon as reasonably practicable.

‘(6) A failure to put the authorisation in writing does not invalidate the authorisation or anything done under the authorisation.

‘(7) While the authorisation is in force, the non-State police officer may exercise the powers only—

- (a) in accordance with the authorisation; and
- (b) subject to the directions of the commissioner or another State police officer.

‘(8) The Police Act applies to the non-State police officer, in relation to the exercise of the powers, as if the officer were a State police officer.

‘(9) The commissioner must ensure that, as soon as practicable after the authorisation is given, the non-State police officer is given an appropriate explanation of the officer’s powers and responsibilities under the Police Act.

‘(10) Part 10 applies to the non-State police officer as if the officer were a State police officer.

‘(11) The commissioner must revoke the authorisation as soon as the commissioner is satisfied the non-State police officer’s help is no longer needed.

‘(12) The revocation may be made orally or in writing but, if made orally, must be put in writing as soon as reasonably practicable.

‘(13) A failure to put the revocation in writing does not invalidate the revocation.

‘(14) The commissioner may only delegate the commissioner’s authorisation power to a State police officer of the rank of at least assistant commissioner.

‘(15) The commissioner must include, in the annual report for a financial year, the following information about any authorisations made under this section during the financial year relating to a terrorist act or threat—

- (a) the nature of the act or threat;
- (b) the number of non-State police officers authorised and the police force or service of which they were members;
- (c) when the authorisations started and ended;
- (d) the functions performed by the officers;
- (e) the results of the authorisations, including benefits and problems.

‘(16) This section does not purport to confer a duty on a federal police officer to perform a function, or to exercise a power, if the conferral of the duty would be beyond the legislative power of the Parliament of the State.

‘(17) In this section—

“authorisation power” means the power to give or revoke an authorisation under this section.

“federal police officer” means a member of the Australian Federal Police.

“non-State police officer” means a police officer of a police force or service of another State or a federal police officer.

“State police officer” means a police officer of the Queensland Police Service.

“terrorist act” see the *Police Powers and Responsibilities Act 2000*, section 147A.’

PART 8—AMENDMENT OF WEAPONS ACT 1990

41 Act amended in pt 8

This part amends the *Weapons Act 1990*.

42 Amendment of s 2 (Application of Act)

Section 2(1)(b), after ‘such member’—

insert—

‘or when performing a function for the Queensland Police Service at the request of the commissioner of the Queensland Police Service’.

PART 9—AMENDMENT OF WITNESS PROTECTION ACT 2000

43 Act amended in pt 9

This part amends the *Witness Protection Act 2000*.

44 Replacement of pt 3 hdg (Protecting identity of protected witnesses and former protected witnesses)

Part 3, heading—

omit, insert—

‘PART 3—PROTECTING IDENTITIES’.

45 Insertion of new s 20A

After section 20—

insert—

‘20A New identity for witness protection officer

‘(1) The chairperson may authorise a witness protection officer to use a new identity if the chairperson is satisfied the use is reasonably necessary—

- (a) for the proper administration of the program; or
- (b) to ensure the officer’s safety while administering the program.

‘(2) If the chairperson gives an authorisation under subsection (1), the chairperson may, in the way the chairperson considers appropriate, require a person responsible for issuing an identity document—

- (a) to issue a document that is reasonably necessary—
 - (i) to allow the officer to establish a new identity; or
 - (ii) to otherwise protect the officer; or
 - (iii) to restore the officer’s former identity; and
- (b) to make any necessary entry in a record kept by the person relating to identity documents issued by the person.

‘(3) The person must comply with the requirement.

‘(4) Also, if the chairperson gives an authorisation under subsection (1), section 20 applies as if a reference to a protected witness were a reference to the officer.

‘(5) This section has effect despite any other Act or law.’

46 Amendment of s 36 (Offence of disclosures about protected witnesses)

(1) Section 36, heading, after ‘**witnesses**’—

insert—

‘**or officers**’.

(2) Section 36(1)—

omit, insert—

‘(1) This section applies to the disclosure of information about any of the following persons (a “**relevant person**”)—

- (a) a person who is, or has been, included in the witness protection program;

- (b) a witness protection officer for whom an authorisation has been given under section 20A(1).’