

POLICE POWERS AND RESPONSIBILITIES AND OTHER ACTS AMENDMENT BILL 2000

EXPLANATORY NOTES

GENERAL OUTLINE

Objective of the Legislation

The *Police Powers and Responsibilities and Other Acts Amendment Bill 2000* ("the Bill") completes the process of consolidation and extension of police powers which commenced with the passing of the *Police Powers and Responsibilities Act 1997* and was followed by a significant consolidation of police powers in the *Police Powers and Responsibilities Act 2000* (PPRA 2000).

Primarily, the Bill contains six new policy initiatives. There are also a number of consequential amendments to existing Acts as a result of these policy initiatives. The new policy initiatives deal with—

1. Controlled operations and controlled activities;
2. Diversion of persons found drunk in a public place to a place of safety;
3. Pre-court diversion of minor drug offenders to a drug diversion assessment program;
4. DNA profiling procedures;
5. Blood and urine testing of persons suspected of committing sexual and other serious offences; and
6. Dealing with things in the possession of the Police Service.

The Bill also provides for the renumbering of the PPRA 2000 after these amendments are included. This ensures that the Act will commence on 1 July 2000 with consecutive numbering.

Consequently, the amended PPRA 2000 will provide a central reference point for police and the general community, enabling them both to understand the nature and extent of police powers. This will result in the added benefit of consistency both in the extent of police powers and in the respective safeguards.

Means of Achieving Policy Objectives

The legislation will prescribe powers and responsibilities of police officers.

Alternative Means of Achieving Policy Objectives

The policy objectives cannot be effectively achieved in any way other than the introduction of the Bill.

Estimated Cost of Implementation for Government

The financial impact of the Bill is expected to be substantial yet justified in the interests of crime reduction and detection.

Where appropriate, submissions have been made to the Cabinet Budget Review Committee for consideration. These submissions have identified the associated costs to Government departments in keeping with the whole of Government initiative required of the various policy objectives.

In particular, resource implications will arise as a result of—

- a. controlled operations and controlled activities. The financial implications will result from the issuing of birth certificates for both covert operatives and protected witnesses pursuant to the Criminal Justice Commission's protected witness scheme. Costs will be incurred from the installation of an improved security access system and the need to employ an additional staff member to undertake in-house research that is presently being undertaken by external organisations;
- b. the establishment and maintenance of drug diversion assessment programs. However the final outcome of these programs may reduce costs associated with dealing with drug related health problems and crime associated with the misuse of illicit drugs;

- c. DNA profiling. Again, the costs associated with establishing and maintaining this procedure will ultimately be outweighed by a significant reduction in the social and economic impact of crime on Queensland citizens; and
- d. blood and urine testing of offenders in sexual and other serious offences. Nevertheless, any costs associated with this initiative are far outweighed by the benefits which will be derived by victims of these crimes.

The diversion of persons found drunk in a public place to a place of safety, and the property handling scheme will have comparatively little financial impact.

There will also be costs associated with the delivery of training for police officers with respect to the proposed changes. These costs have been anticipated and provision has been made within the Police Service's training budget.

Consistency with Fundamental Legislative Principles

The Bill recognises the importance of privacy and protection of law abiding citizens, by ensuring that police powers are properly balanced with an individual's rights to privacy.

Consultation conducted in Development of the Bill

There has not been general community consultation on the contents of the Bill.

Where there are potential implications on the roles of government departments, these departments were consulted with respect the relevant portions of the Bill.

Additionally, the Police Powers Reference Group considered and supported the concept of blood and urine testing of persons suspected of committing sexual and other serious offences.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Short title

Clause 1 specifies the short title of the Bill.

Commencement

Clause 2 provides that parts 3 to 7 commence on 1 July 2000.

PART 2—AMENDMENT OF *POLICE POWERS AND RESPONSIBILITIES ACT 2000*

Act amended in pt 2 and sch

Clause 3 is a machinery section providing that part 2 and the schedule amend the PPRA 2000.

Amendment of s 2 (Commencement)

Clause 4 includes the drug diversion provision contained in section 211 to commence on a day to be fixed by proclamation.

Amendment of s 33 (Prescribed circumstances for requiring name and address)

Clause 5 includes in the prescribed circumstances for a person to state the person's name and address before a DNA sample is to be taken from the said person under a DNA sample notice.

Amendment of s 122 (Certain Acts do not apply to this part)

Clause 6 amends section 122 of the PPRA 2000 to provide for the replacement of the *Libraries and Archives Act 1988* with the Public Records Act.

Renumbering of chs 5-12

Clause 7 renumber chapters 5-12 of the PPRA 2000.

Insertion of new ch 5

Clause 8 inserts a new chapter 5 into the PPRA 2000 dealing with controlled operations and controlled activities.

CHAPTER 5—CONTROLLED OPERATIONS AND CONTROLLED ACTIVITIES

Part 1—Preliminary

Objects of ch 5

Section 163 sets out the objectives of this chapter. The objectives recognise that in the course of investigating serious indictable offences and organised crime, it is sometimes necessary for law enforcement agencies to conduct controlled activities in which covert operatives may be required to commit offences, in an endeavour to gather evidence of offences.

The objectives of the chapter attempt to clarify that controlled operations should be approved only when such an operation is appropriate in all the circumstances of an individual case. In recognition of the need for such operations, the objects of the chapter also set out the intent of the legislation to provide protection from civil and criminal liability for persons who act in accordance with the provisions of the chapter.

Investigation of minor matters not affected

Section 164 clarifies that it is not intended that this legislation will affect unplanned police activities of a minor nature which involve the commission of offences by police officers. For example, it may be necessary for a police officer to commit a traffic offence in order to effect the arrest of an offender. It is not intended that activities of this nature be subject to the provisions of this legislation.

Lawfulness of particular actions

Section 165 clarifies that it is lawful for certain persons to take the actions set out in the section. This is a provision which clarifies the intent of the legislation in respect to the activities mentioned.

Controlled operations and activities generally

Section 166 provides that controlled operations and activities conducted after the commencement of this chapter may only be conducted in accordance with this chapter.

Part 2—Controlled Operations

Division 1—Controlled operations committee

Establishment of controlled operations committee

Section 167 requires the police Commissioner to establish a controlled operations committee. The Commissioner is to appoint the chair and members of the committee but membership of the committee must include an independent person and representatives of the Criminal Justice Commission and the Queensland Crime Commission.

Independent member

Section 168 empowers the Minister for Police to appoint the independent member of the panel referred to in the previous section. The person appointed must be a retired Supreme Court or District Court Judge. The provision also requires the Minister to consult with the Premier, and the Attorney-General before making the appointment.

Acting independent member

Section 169 allows the appointment of an acting independent member when a vacancy occurs or during any time the incumbent is unable to perform the function.

Division 2—Committee's functions and business

Committee's functions

Section 170 sets out the functions of the committee, which are to consider applications to conduct controlled operations and to make recommendations about whether such operations should be approved. The committee also has other functions conferred on it by later sections, including making decisions about whether, for a particular operation, it is appropriate to use a false birth certificate to assist a covert operative in establishing a false identity.

Committee business

Section 171 provides that the independent member is the chair of the committee, and that the independent member must be present for the committee to perform its functions. The committee may also conduct its business as it sees fit, except that the decisions of the committee must be recorded.

Committee's recommendations

Section 172 places conditions on the committee if it intends to recommend that a particular controlled operation be approved. Before making such a recommendation, the committee must be satisfied that the nature of the offences being investigated justifies approving an operation in which a covert operation will be authorised to commit offences. This provision is intended to ensure that the committee considers whether the nature of the offences being investigated justifies the use of a controlled operation.

This provision also authorises the committee to decide whether in the circumstances, it is appropriate for the covert operative to use a fake birth certificate in the course of the operation.

Division 3—Approval of controlled operations

Application for approval

Section 173 contains the scheme by which an officer of an agency may apply for the approval of a controlled operation. This section applies to a police officer or an officer of an agency authorised by the chief executive. This is to allow officers of the CJC and QCC who are not police officers to apply for approval of a controlled operation. This provision also sets out the information which must be provided in an application.

This section requires that applications are directed to the approving officer of an agency.

Application must be referred to committee

Section 174 requires an approving officer to refer an application to the controlled operations committee, and must receive the committee's recommendations before he or she may consider the application.

Certain CJC controlled operations

Section 175 applies in the case of a controlled operation which the CJC proposes to conduct in which the target of the operation may be a police officer. This section recognises that it would be inappropriate to require the CJC in these circumstances to obtain the recommendation of the Committee, given that senior police officers will be members of the committee. In these cases, rather than refer the matter to the controlled operations committee for a recommendation, the Chairperson of the CJC must consult with the independent member of the committee and the Crime Commissioner and take into account their recommendations before approving an operation.

Procedure in urgent circumstances other than if s175 applies

Section 176 creates a scheme to deal with approvals of controlled operations in urgent circumstances, with the exception of operations proposed to be conducted by the CJC pursuant to section 175. Section 363 of the PPRA 2000 provides for applications in urgent circumstances for a

warrant, approval or authorities of this nature. That provision allows such applications to be made by telephone, fax radio or another similar facility in urgent circumstances. This section sets out that an approving officer may approve an application for a controlled operation made pursuant to section 363, however, the officer must then refer the application to the committee. The committee may then consider the application and make recommendations as for a normal application.

Consideration and approval of application

Section 177 sets out the range of matters that an approving officer must take into account before he or she may approve a controlled operation. Unless the approving officer is satisfied that the circumstances set out in the section exist, he or she may not authorise a controlled operation.

This section also sets out circumstances in which an approving officer is prohibited from authorising a controlled operation. This includes circumstances in which the conduct of the controlled operation is likely to result in injury or death, serious damage to property or serious loss of property. This section also restricts approval of controlled operations in circumstances which would induce a person to commit an offence of a kind which they might not otherwise have committed if the operation had not been conducted.

The approving officer is also prohibited from approving a controlled operation unless the committee has recommended its approval. This means that the approving officer may refuse an application for a controlled operation, regardless of the committee's recommendation. However, and subject to the procedures in urgent circumstances, he or she may not approve an application unless the committee so recommends.

What approval must state

Section 178 requires that an approval of a controlled operation must be in writing. The section also sets out what must be included in the approval. This includes a description of the otherwise illegal activity in which any covert operative may engage in the course of the operation. For a covert operative who is not a police officer, that description must be a precise description of each illegal activity which will be engaged in. In the case of a covert operative who is a police officer, the description may be a description of the general classes of activities.

Effect of approval

Section 179 provides that an approval to conduct a controlled operation represents the authority for the covert operatives named in the approval to act in that capacity for the operation.

Division 4—Variation of approval for controlled operations

Application to vary approval

Section 180 provides a mechanism by which an application may be made to vary an existing controlled operation. The provision sets out the required content for such an application.

Application must be referred to committee

Section 181 requires an application for a variation of an approval to be referred to the controlled operations committee in the same manner as a new application.

Certain CJC controlled operations

Section 182 provides a scheme by which a variation of a controlled operation being conducted by the CJC in which a police officer is or may be the target may be approved. This scheme is similar to that for new applications of this nature, and removes the need to refer the application to the Committee. Instead, the Chairperson of the CJC must seek the recommendations of the independent person and the crime commissioner.

Procedure in urgent circumstances other than if s 182 applies

Section 183 creates a scheme to deal with variations of controlled operations in urgent circumstances, with the exception of operations being conducted by the CJC pursuant to section 175. Section 363 of the PPRA 2000 provides for applications in urgent circumstances for a warrant, approval or authorities of this nature. That provision allows such applications to be made by telephone, fax radio or another similar facility in urgent circumstances. This section sets out that an approving officer may

approve a variation to a controlled operation in the case of an application made pursuant to section 363, however, the officer must then refer the application to the committee. The committee may then consider the application and make recommendations as for a new application.

When approval may be given

Section 184 limits the approving officer to varying a controlled operation unless it is necessary to do so for the continued effective investigation of a serious indictable offence or organised crime.

How approval may be varied

Section 185 limits the way in which an existing approval may be varied. An approving officer may vary the period of approval, by changing the person who may act as a covert operative, or by changing particulars of the offences targeted.

Division 5—Special provisions about creating identity documents

Request for the issue of document to conceal identity—general

Section 186 applies if the committee has recommended that it is appropriate to use a manufactured birth certificate in the course of a controlled operation. When the committee so recommends, a covert operative may use a certificate previously issued for that officer, or the Chief Executive may approve the creation of a manufactured birth certificate for use by the officer. Unless the committee has provided that recommendation, the covert operative may not use a manufactured birth certificate, even if a manufactured certificate has previously been created for that officer.

Request for issue of document to conceal identity—CJC

Section 187 applies in cases in which the Chairperson of the CJC has approved a controlled operation without reference to the controlled operations committee. In those cases, if the independent member of the committee and the Crime Commissioner so recommend, the Chairperson of the CJC may authorise the production of a manufactured birth certificate.

Giving effect to authority under s 186 or 187

Section 188 provides for the creation of a manufactured birth certificate for use by a covert operative. Once the required recommendations and authority have been issued, the person authorised to create the certificate must show the Registrar-General the authority, and the Registrar-General must then give the officer the help he or she needs to create the certificate.

The procedures set out in this provision do not apply to the manufacture of any other type of document which might be used to conceal the identity of a covert operative or to create an assumed identity for the operative.

Special provisions about concealing identities of covert operatives

Section 189(1) and (2) provide protection from liability for any person who issues a document which will be used in the creation of an assumed identity for a covert operative. For example, a person who issues a driver's licence in a covert operative's assumed name does not commit an offence, and does not incur criminal or civil liability if this is done at the request of the approving officer.

Section 189(4) provides that any contract or agreement entered into by a covert operative using an assumed name is not invalid. For example, a covert operative might enter a contract to hire a motor vehicle as part of the controlled operation. This agreement is not invalid merely because the identity used by the operative was an assumed one.

Section 189(5) requires an agency to return identity documents to the issuing agency once they are no longer needed.

Section 189(6) creates an offence for a covert operative to use an identity document except for the purposes of a controlled operation.

Part 3—Controlled Activities

Authorised controlled activities

Section 190 creates a scheme for the approval and conduct of controlled activities. The term "controlled activity" is defined in the dictionary to the PPRA 2000 and means an investigation of a covert nature by a police officer attempting to obtain evidence of an offence, and which involves a single meeting with a target of the investigation at which some illegality on the part of the officer is undertaken.

An example of this is a situation in which a police officer in plain clothes approaches a suspected drug trafficker and seeks to purchase drugs. Once the drugs have been purchased, the offender is immediately arrested. The police officer may meet with the suspect any number of times before this to make the arrangements for the sale and provided those meetings do not involve any illegality on the part of the officer, they are not controlled activities. However, once the officer takes part in the drug sale, he or she takes part in an offence and the meeting becomes a controlled activity. So that this legislation applies to that meeting, it must first be approved by an officer of the rank of Inspector or above, and must be approved and conducted in accordance with the policy of the agency.

In this example, if a police officer purchases drugs from a suspect in the course of a controlled activity, he or she could not arrange another meeting at which drugs were again purchased as this would entail illegality in more than one instance and would come within the scheme of a controlled operation.

Authorisation of controlled activities by CJC

Section 191 provides a scheme for the Chairperson of the CJC to approve controlled activities to be undertaken by that organisation.

Part 4—Miscellaneous

Disclosure of information

Section 192 creates an offence for a person, in particular circumstances, to disclose certain information about a controlled operation which comes to his or her notice. The circumstances in which it would not be an offence to disclose information includes, for example, if the disclosure is in the public interest.

Protection from liability

Section 193 provides for protection from civil and criminal liability for persons who are or were covert operatives or who are authorised to engage in a controlled activity. For the purposes of this section, these persons are termed "relevant persons".

The section provides that a relevant person does not incur civil liability for an act undertaken pursuant to this legislation. This means that a police officer who engages in a controlled activity, or a covert operative who takes part in a controlled operation do not incur civil liability for any act or omission done as part of the controlled activity or controlled operation. This protection applies provided that the act or omission is done in good faith and without negligence.

This provision does not operate to remove the right of a person to seek a civil remedy. When a civil liability would otherwise be incurred, the liability will attach to the State instead of the individual.

The section also provides protection from criminal liability for a covert operative or for an officer who engages in a controlled activity. This means that a police officer who engages in a controlled activity, or a covert operative who takes part in a controlled operation do not incur criminal liability for any act or omission done as part of the controlled activity or controlled operation. This protection applies provided that the act or omission was done in good faith and without negligence, and that the act or omission was done or made in accordance with the approval for the operation, or in accordance with the policy of the agency relating to controlled activities.

Therefore, protection from criminal liability is afforded to a covert operative provided that the act or omission was included in the approval. This protection is extended somewhat for a covert operative who is a police officer. In those cases, protection from criminal liability is also afforded for an act or omission which was necessary to protect a person's safety, or to protect the identity of the covert operative, or to take advantage of an opportunity to gather evidence in relation to a serious indictable offence or organised crime which the original operation did not necessarily target.

For example, a police officer acting as a covert operative in an operation targeting drug offenders might inadvertently be presented with the opportunity to gather evidence on an unsolved murder. The officer could pursue that opportunity and still retain the protection from criminal liability the legislation provides. However, this is not the case with a civilian who is acting as a covert operative. In these cases the protection from criminal liability applies only in respect to the acts or omissions set out in the approval.

Admissibility of evidence obtained through controlled operations and activities

Section 194 clarifies that evidence obtained in the course of a controlled activity is not inadmissible simply because the collection of the evidence involved an activity which would be unlawful except for this legislation. This provision does not interfere with the discretion of a court to exclude evidence on public policy or other grounds. The provision serves merely to clarify that the unlawfulness, if occurring within an approved controlled operation or activity, does not render the evidence inadmissible.

Cross jurisdictional protection

Section 195 recognises that other jurisdictions have in place legislative schemes which are similar to this legislation. It is also recognised that it is possible that a police officer who is a covert operative in another jurisdiction may be required to undertake activities within Queensland to ensure the success of the operation. For example, a police officer operating in a covert capacity in a controlled operation in Tweed Heads may be forced to

accompany a targeted offender across the border into Queensland for the purpose of the operation. This provision is intended to allow protection from criminal liability and to clarify the status of evidence gathered in such a case.

The provision only applies to police officers, and only applies in relation to a jurisdiction which has legislation in place similar to this legislation. For this provision to apply, the legislation from the other jurisdiction must be mentioned in a regulation.

Evidentiary provision

Section 196 is a deeming provision which allows a chief executive officer of a law enforcement agency to provide a certificate to a court which certifies the things mentioned in the section. Having done this, the Court is then able to accept the certificate as evidence of the things in the certificate. This has the effect of removing the need for the prosecution to prove issues such as a person was an approving officer of the agency, or for a certain period a person was a covert operative. This provision does not remove the right of an accused to contest those matters.

Powers not to be delegated

Section 197 restricts an approving officer from delegating his or her power under this legislation to approve a controlled operation. This restriction will exist despite any power of the officer to delegate which might exist in other legislation. The result is that a controlled operation may only be approved personally by an approving officer, and this responsibility may not be performed by another person under any circumstances.

Renumbering of ss 163-174

Clause 9 renumbers sections 163 to 174 as sections 198 to 209.

Insertion of new ss 210—211

Clause 10 insert new sections 210 and 211 dealing with public drunkenness and drug diversion.

Additional case when arrest for being drunk in a public place may be discontinued

Section 210 applies if—

- a. a person is arrested for being drunk in a public place; and
- b. a police officer is satisfied it is more appropriate for the person to be taken to a place of safety other than a watch-house.

Subsection (2) imposes a duty on a police officer, at the earliest reasonable opportunity—

- a. to take the person to a place of safety, or to arrange for someone else to take the person to a place of safety; and
- b. to release the person.

However, subsection (3) does not apply if the police officer is satisfied—

- a. a place of safety is unable to care for the person, e.g., it may be fully occupied, or there may not be a place of safety within a reasonable distance; or
- b. the 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.

Subsection (4) requires the person in possession or in charge of a place of safety give a police officer a signed undertaking to provide care for the person prior to the person being released to the place of safety.

Additional case when arrest for drugs offence may be discontinued

Section 211 applies if—

- a. a person is arrested for a drugs offence; and
- b. the person has not committed another indictable offence in the circumstances that are related to the drugs offence; and
- c. the person—
 - i. has not previously been convicted of an offence involving violence against a person; or

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- ii. has been convicted of an offence involving violence against a person for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired; and
- d. during an electronic interview, the person admits having committed the offence; and
- e. the person has not been offered the opportunity to attend a drug diversion assessment program; and
- f. the person agrees in writing to attend a drug diversion assessment program.

Subsection (2) requires that—

- a. if a person is an adult, a police officer must offer the person the opportunity to attend a drug diversion assessment program; or
- b. if the person is a child, a police officer may offer the child the opportunity to attend a drug diversion assessment program if the child has not previously been cautioned for a drugs offence; or
- c. if the person is a child, a police officer must offer the child the opportunity to attend a drug diversion assessment program if the child has previously been cautioned for a drugs offence.

Subsection (3) allows a person who is a child, who has not been previously cautioned for a drug offence to be diverted to the drug program.

Subsection (4) requires that a person who agrees to attend a drug diversion assessment program must sign an agreement and the police officer must give the person a written requirement to comply with the agreement and inform the person that a failure to comply with the requirement is an offence against section 357 of the PPRA 2000. The health chief executive is to be given a copy of the agreement.

Subsection (5) provides that the drug evidence such as a Subsection (4) requires that a police officer release a person who enters into a written agreement.

Subsection (6) provides it is the duty of a police officer to release a person who has agreed in writing to attend a drug assessment program.

Subsection (7) allows a police officer to offer a drug diversion assessment program to a person who is interviewed for a drug offence as a volunteer.

Renumbering of ss 175-187

Clause 11 renumbers sections 175 to 187 as sections 212 to 224.

Amendment of s 188 (Duty of police officer receiving custody of person arrested for offence)

Clause 12 renumbers section 188(2)(b) as 188(2)(c) and inserts a new subsection (2)(b) and subsection (3). The new section 188(2)(b) allows a watch-house manager to release a person arrested for drunk to a place of safety or a person arrested for a drug offence to a drug diversion assessment program.

Subsection (3) provides that an offence is discontinued if the person is released under section 210 or 211.

Subsection (4) renumbers section 188 as section 225.

Renumbering of ss 189-231

Clause 13 renumbers sections 189 to 231 are renumbered to sections 226 to 268.

Amendment of s 232 (Search of persons in custody)

Clause 14 inserts new subsections (5) and (6) to section 232 and renumbers the section as section 269.

Subsection (5) provides that a police officer may give property taken from a person who is taken to a place of safety under section 210—

- a. to an adult person at the person's home; or
- b. to a friend or relative at the friend or relative's home; or
- c. to the person in possession or in charge of a place of safety.

Subsection (6) requires a person who takes possession of the property to give a police officer a receipt for the property.

Renumbering of ss 233-234

Clause 15 renumbers sections 233 to 234 at sections 270 to 271.

Amendment of s 235 (Identifying particulars notice may be given)

Clause 16 amends section 235(3)(c) to replace the paragraph allowing proof of service under the Justices Act 1886, to simply state the notice must be signed by the serving police officer.

Renumbering of ss 236-258

Clause 17 renumbers sections 236 to 258 at sections 273 to 295.

Insertion of new ch 8, pts 4-5

Clause 18 inserts, after section 295, a new part 4 dealing with DNA procedures.

Part 4—DNA procedures

Division 1—Application and purpose of pt 4

Purpose of pt 4

Section 296 provides the purpose of part 4. The purpose includes the authorising of certain police officers, doctors and registered nurses to take hair samples and mouth swabs from persons for DNA analysis. The section indicates that the part provides the procedures for the taking of the hair samples and mouth swabs and authorises the establishment of a DNA database to record information obtained from the DNA analysis of hair samples and mouth swabs. The section also indicates that the part authorises the information contained in and produced by the database for use in investigations by law enforcement agencies.

Division 2—Preliminary provisions about taking samples for DNA analysis

Who may take DNA samples

Section 297 provides that a police officer, doctor or registered nurse, referred to as a "DNA sampler", may take samples from a person for the purpose of conducting DNA analysis. The section further indicates that a doctor or registered nurse can only take the samples if asked by a police officer.

It also provides that a police officer can only take the samples if authorised by the Commissioner of Police. The Commissioner may authorise a police officer to take samples if the police officer has completed a course of training approved by the Commissioner or has the appropriate experience or expertise to take the samples from persons.

Where DNA sample may be taken

Section 298 provides that samples may be taken from a person at a police establishment, hospital, prison or another place the DNA sampler considers appropriate in the circumstances.

How samples may be taken

Section 299 provides that a DNA sampler may only take samples from a person by requiring the person to use a mouth swab or by collecting hair. The collection of hair includes the taking of the hair root. The section also provides that hair samples are not to be taken from the genital or anal area, a person's buttocks or from the breasts of a female.

Division 3—Taking DNA samples with consent

Informed consent needed for taking DNA sample

Section 300 provides for the taking of samples from a person by consent. A police officer may ask the person to provide the samples for DNA analysis and must ensure the person is given the opportunity to give

informed consent, i.e., the person is aware of the nature of the taking of the sample and of his or her right to decline. The section also provides that a police officer must be reasonably satisfied the person is not under the influence of liquor or a drug.

Special requirements for obtaining consent from persons with impaired capacity

Section 301 provides that if a police officer reasonably suspects that a person (other than a child) who is to be asked to consent to the taking of DNA samples has an impaired capacity, the police officer must ensure that a support person is present when the explanation provided for in section 303 is given. The police officer must also ensure that, where reasonably practicable, the person is given a reasonable opportunity to speak to the support person in circumstances in which the conversation can not be overheard.

Special requirements for obtaining consent from children

Section 302 provides that a police officer must not ask a child to consent to the taking of DNA samples unless the child is, or appears to the police officer to be, at least 14 years of age and has a support person present when the explanation provided for in section 303 is given.

Explanation to be given before asking for consent

Section 303 provides in detail the explanation a police officer must give to a person for that person to provide an informed consent. An approved form may contain the information in the explanation.

Explanation and consent to be recorded

Section 304 indicates that the explanation given by a police officer provided for in section 303 and the giving of informed consent by the person must, if reasonably practicable, be electronically recorded. If the informed consent is not electronically recorded then it is to be given in writing and signed by the person giving the consent. The section also stipulates that if written consent is obtained from a child or a person with an

impaired capacity then the support person present must also sign the consent.

Division 4—Taking DNA samples without consent

Purpose of div 4

Section 305 indicates that division 4 provides the circumstances in which DNA samples may be taken from a person without consent.

Special requirements if person with impaired capacity

Section 306 applies if a police officer reasonably suspects a person from whom samples are to be taken is a person with impaired capacity. The section states the police officer must, if reasonably practicable, ensure a support person is present when the samples are collected. Also, the person must be given a reasonable opportunity to speak to a support person in circumstances in which the conversation will not be overheard.

Taking sample if proceedings started against adult by arrest, notice to appear or complaint and summons

Section 307 applies if a police officer has commenced or continues a proceedings against a person, who is not a child, for an indictable offence by arrest, notice to appear or complaint and summons.

A police officer may take DNA samples from a person without consent, with the approval of a commissioned officer, or where the police officer is a commissioned officer, a commissioned officer of a higher rank.

The relevant commissioned officer is to take account of the rights and liberties of the person and the public interest when considering whether to approve the taking of a DNA sample.

The section further provides that a police officer may detain the person for the purpose of obtaining a DNA sample and provides the power to take the person to a place mentioned in section 298(a), (b) or (d) for the sample to be taken.

DNA sample notice may be given

Section 308 applies if a police officer has commenced or continues proceedings against a person, who is not a child, for an indictable offence by arrest, notice to appear or complaint and summons and the police officer decides it is not necessary to have a DNA sample taken immediately.

The police officer may issue a written notice ("DNA sample notice") requiring the person to report to a police officer at a stated police establishment between stated hours within 7 days of being issued the notice, for a DNA sampler to take the DNA samples. The approval of a commissioned officer, or when the police officer is a commissioned officer, a commissioned officer of a higher rank, is required before issuing a DNA sample notice. The relevant commissioned officer is to consider the rights and liberties of the person and the public interest when approving the taking of DNA samples under this section.

The section also provides that the DNA sample notice must include prescribed information for the person. The police officer must warn the person that it is an offence to contravene the requirement of the notice.

Taking sample from adult before court

Section 309 provides authority for a court, in proceedings for an indictable offence, to order a DNA sample be taken from a person other than a child, if satisfied that evidence of a person's involvement in the commission of an indictable offence may be obtained.

The section also provides authority to detain a person for the sample to be taken or order the person report to a police officer at a stated police establishment for the sample to be taken.

Taking sample after conviction of adult

Section 310 provides the authority for a court to order a person other than a child be detained for up to one hour for the purpose of having a sample taken, or order the person report to a police officer at a stated police establishment for the sample to be taken if the court has convicted the person of an indictable offence.

Taking sample from prisoner

Section 311 applies to a person serving a term of imprisonment for an indictable offence. The section provides the authority for a DNA sampler to enter the prison where the person is held, detain and take that person to an appropriate place in the prison and take the DNA sample. This section expires after 3 years.

Taking sample from child

Section 312 applies where a police officer is considering taking DNA samples from a child for DNA analysis. The section provides that the police officer must make an application to a Children's Court for authority to take the sample. The police officer must give notice of the application to the child, (and where practicable) a parent, and the chief executive (family services). An application can be made when proceedings for an indictable offence have been commenced and the court is reasonably satisfied that child has committed the offence.

Division 5—General requirements about taking samples

Protecting the dignity of persons while taking samples

Section 313 provides the authority to ask a person to remove items of clothing if it is reasonably necessary for the taking of a sample. The section provides that no more clothing than is necessary is to be removed and if reasonably practicable the sample must not be taken in the presence of someone who is not required to be present or where someone not involved in the taking of the sample can see the sampling take place.

Help with sampling

Section 314 applies to a doctor or registered nurse who is asked to take a sample. The doctor or registered nurse may ask other persons to provide reasonable assistance when taking the sample and allows the use of reasonable force by the doctor, registered nurse or a person providing assistance.

The section also provides that if a person has consented to the taking of DNA samples that the doctor or registered nurse are to immediately stop taking the sample if the person withdraws that consent. The withdrawal of the consent does not affect the admissibility in evidence of any analysis of anything taken before the consent is withdrawn.

Division 6—General

Power to analyse etc. samples

Section 315 provides the authority for a DNA sample to be analysed, or further analysed if required, and retained. The section also provides the authority for the results of the analysis to be included in a DNA database.

When DNA samples and results must be destroyed

Section 316 provides the circumstances when a sample and the results of analysis must be destroyed. The section also provides that the requirement to destroy does not apply to samples or results of analysis obtained under section 311. The requirement to destroy the results of analysis is satisfied when the information that identifies the person from whom the sample was taken is deleted.

DNA database

Section 317 provides that the Commissioner is to record in a database the information obtained from a DNA analysis of a sample. The Commissioner may also include information obtained from a DNA analysis of a sample taken before or after the commencement of the section, including blood, as well as a thing a police officer reasonably suspects is evidence of the commission of an offence. The section also provides the authority to use the results of any DNA analysis kept in the database for any investigation conducted by a declared law enforcement agency.

Sample not to be used other than for DNA analysis

Section 318 restricts the use of a DNA sample or the results of analysis to the performance of a function of the police service.

Part 5—Blood and urine testing of persons suspected of committing sexual and other serious offences

Division 1—Preliminary

Purposes of pt 5

Section 319 outlines the purpose of the part, which is to help ensure that victims of certain sexual and serious offences (relevant offences) receive appropriate medical, physical and psychological treatment.

Application of pt 5

Section 320 provides that the part only applies to those relevant offences listed in the section and then only if blood, saliva or another bodily fluid is transmitted to a mucous membrane, broken skin, a vagina or an anus.

Certain Acts do not apply to this part

Section 321 restricts the application of the Public Records Act and the *Freedom of Information Act 1992* so that the identity of a suspect or a victim cannot be divulged.

Division 2—Taking blood and urine samples

Application for order for blood and urine testing of person

Section 322 provides that the section does not apply unless a police officer arrests a person the police officer reasonably suspects has committed a relevant offence. Where applicable a police officer may apply to a magistrate or, if appropriate, a Children's Court for an order to take a

sample of blood and urine. The person subject of the application must be informed of their right to have a lawyer present at the hearing of the application.

Notice to be given of application for disease test order for child

Section 323 outlines special requirements to be met if the application is made with respect to a child suspect. These requirements ensure that support persons are present to assist the child through the application and hearing process.

Procedure for making disease test order

Section 324 outlines the requirements for hearing and determining an application against a suspect and allows a magistrate or Childrens Court to make a disease test order. The hearing is to be in a closed court. Additionally, to reduce trauma to a victim, the victim is not compellable to appear or give evidence before the court.

What disease test order must state

Section 325 is a machinery section outlining the necessary content of a disease test order.

Appeal against disease test order

Section 326 provides an appeal mechanism for a person who has had a disease test order made against him or her. The appeal must be heard and determined by a District Court within 48 hours after the order appealed against is made. The hearing of the appeal is not to be adjourned. The restricted time limit for the appeal is necessary due to the need to obtain the results of analysis as soon as possible following the suspected offence in order to ensure the appropriate medical treatment is provided to a victim. An appeal must be held in closed court.

Taking blood and urine samples

Section 327 allows a police officer to ask a doctor or prescribed nurse, i.e., a nurse employed by Queensland Health, to take a blood and urine sample. On taking of a sample the doctor or nurse must immediately forward the sample to a unit of Queensland Health with appropriate facilities for testing the sample.

A doctor or nurse or any person assisting may use reasonable force for the taking of the blood sample.

Division 3—General

Analysis of blood and urine samples

Section 328 provides for the analysis of the sample taken from a suspected person and allows Queensland Health to destroy any excess amount of the sample not required for analysis.

Restriction on disclosure of results of analysis

Section 329 provides that a person who conducts an analysis of a blood or urine sample must not disclose the results of the analysis to another person other than the persons listed in subsection (1). In particular, a media report of the application, hearing, determination, test or results is not to be made.

The persons to whom information is disclosed under subsection (1) are restricted from disclosing that information to a person other than one listed in subsection (2). Under subsection (3) exceptions are made for disclosure by the victim or suspect other than public disclosure.

Certain evidence inadmissible

Section 330 provides that the making of an application under this part and the results of the application are inadmissible in evidence in any criminal or civil proceeding.

Renumbering of ss 259-309

Clause 19 renumbers sections 259 to 309 as sections 331 to 381.

Omission of ch 10, pt 2, divs 3-5

Clause 20 omits divisions 3 to 5 of part 2 from chapter 9 renumbered as chapter 10. Divisions 3 to 5 are, where necessary, modified and incorporated into the new part 3 (Dealing with things in the possession of police service).

Renumbering of ss 318-336

Clause 21 renumbers sections 318 to 336 to sections 382 to 400.

Amendment of s 337 (Particular Acts do not apply to this division)

Clause 22 renumbers section 337 as section 403 and replaces '*Libraries and Archives Act 1988*' with '*Public Records Act*'.

Renumbering of ss 338-355

Clause 23 renumbers sections 338 to 355 as sections 402 to 419.

Insertion of new ch 10, pt 3

Clause 24 inserts a new part to establish a consolidated scheme for dealing with things in the possession of the police service.

Part 3—Dealing with things in the possession of police service

Division 1—Preliminary

Application of pt 3

Section 420 indicates the part applies to things that are lawfully in the possession of the police service through seizure, as apparently lost property or otherwise. The section defines such property as a "relevant thing" and provides for the circumstances when the part does not apply.

Object of pt 3

Section 421 provides that the part ensures, as far as practicable, a relevant thing is to be retained by the police service is handled appropriately and through accountable means and retained for only as long as is reasonably necessary.

Responsibilities of police officer taking possession of relevant thing

Section 422 details the requirements upon a police officer when a relevant thing is seized or otherwise comes into the police officer's possession. This includes ensuring the property is delivered to an appropriate property officer unless the circumstances in subsection (1)(a) & (b) exist. The section provides that until the thing is delivered to the property officer, the police officer is reasonable for the safe keeping of the thing.

The section also provides that the commissioner ensure reasonable inquiries and efforts are made to locate anyone lawfully claiming to be entitled to the thing and facilitate the lawful disposal or return of the thing.

The provision is similar that contained in the Responsibilities Code for the *Police Powers and Responsibilities Act 1997*.

Division 2—Return of seized things

Return of seized things

Section 423 provides that a police officer must return a thing seized to the owner or person who had lawful possession before it was seized unless a justice orders otherwise. The officer must be satisfied the thing is no longer required as evidence and it is lawful for the person to possess the thing. The section also indicates the officer is to take the steps reasonably necessary to minimise the need to retain the thing.

The section also provides the circumstances when a thing seized, despite the requirement to return the thing to the owner or person who had lawful possession, may be retained by the police officer.

The section does not apply if a thing was seized to provide evidence of the commission of an offence and the commissioner is satisfied it is inappropriate to return the thing.

The section replaces section 311 of the PPRA 2000.

Application by owner etc. for return of relevant things

Section 424 applies to a relevant thing that has been in the possession of the police service for at least 30 days or described in a notice under section 440(4) order for forfeiture of relevant things connected with offences. The section does not apply to a relevant thing forfeited to the State under this or any other Act.

The section provides that a person who claims legal or equitable interest in a relevant thing may make application in the approved form to a magistrate for the thing to be delivered to the person's possession and indicates the application must be given to the Attorney-General, the Commissioner and anyone else the person reasonably believes has a legal or equitable interest in the thing.

The section also provides that the magistrate may order delivery of the thing to the person if satisfied it is appropriate and details the circumstances when the magistrate must not order the delivery of the thing to the person.

The section replaces section 310 of the PPRA 2000.

Application by police officer for order if ownership disputed

Section 425 applies if an owner of the relevant thing cannot be ascertained which includes a dispute over ownership of the thing. A police officer may make an application to a magistrate for an order declaring who is the owner of the thing. The magistrate may make an order the magistrate considers appropriate including an order for disposal if the owner cannot be determined.

The section does not prevent a person from recovering the property by lawful action from the person to whom the thing is delivered under the order provided the action for recovery is brought within 6 months.

The section consolidates section 39 of the *Justices Act 1886* so far as it applies to police officers and things retained by the Police Service.

Application for order in relation to seized things

Section 426 provides a police officer must make application to a justice of the peace or magistrate for an order under section 429 within 30 days after the officer seizes a thing as evidence of the commission of an offence. The section provides circumstances when the officer does not have to make the application for an order. The justice or magistrate are referred to as the "issuer".

The section also states the application for an order must be made within 30 days if a proceedings started in relation to the thing is discontinued without any order being made or the consent of the owner or person who had lawful possession of the thing before it was seized is withdrawn.

The section replaces section 314 of the PPRA 2000.

Orders issuer may make in relation to seized thing

Section 427 provides the issuer may issue an order as to the forfeiture, retention, return, disposal or destruction of the relevant thing after considering the application. The issuer may also order or impose any condition the issuer considers appropriate.

The section replaces section 315 of the PPRA 2000.

Disposal of seized things at end of proceeding

Section 428 provides a court may make an order at the end of a proceedings determining how the relevant thing will be dealt with.

The section also states the Commissioner is to determine how the thing is to be destroyed or disposed of subject to any direction in an order for forfeiture, destruction or disposal. The Commissioner must obtain the Minister's approval if the value of the thing is more than the that prescribed by regulation.

The section replaces section 316 of the PPRA 2000.

Commissioner to decide way of destruction or disposal

Section 429 allows the Commissioner to decide how a thing the subject of an order for disposal or destruction under section 428 or 429. The Commissioner's decision is subject to any direction in the order, and the Minister's direction if the thing more than a value prescribed under a regulation.

Division 3—Dealing with dangerous drugs etc.

Application of div 3

Section 430 applies if a police officer reasonably suspects a thing seized by the officer is a dangerous drug or a thing intended for use, or was used in the commission of an offence against the *Drugs Misuse Act 1986*. These things are referred to as drug evidence.

Destruction of drug evidence soon after seizure

Section 431 provides a police officer may destroy drug evidence where it is found or move it to another place for destruction if a police officer reasonably believes the drug evidence is dangerous or that there is a risk it may be used in the commission of an offence.

Destruction of dangerous drug after notice

Section 432 applies to drug evidence that is not destroyed under section 433 or by an order of a court under the *Drugs Misuse Act 1986*.

This section provides that a police officer give a written notice (destruction notice) together with a copy of the Certificate of Analysis of a dangerous drug to a person from whom drug evidence has been seized. The notice will state that the drug evidence will be destroyed within 30 days of the date of service of the notice unless the person notifies the Commissioner that he or she desires an independent analysis of the drug evidence. A failure on the part of the person served with the notice to request an independent analysis renders the Certificate of Analysis conclusive and allows for the destruction of the dangerous drug.

The Commissioner is not to destroy the drug evidence if the Commissioner is given written notice disputing the identity or quantity of the drug.

An application under section 32 of the *Drugs Misuse Act 1986* is to be made if a destruction notice can not be served upon the person.

Destruction of things used in the administration of a dangerous drug

Section 433 allows the Commissioner to destroy a thing seized that has been used to administer or to consume or smoke a dangerous drug, where the thing is no longer required as evidence. The provision is similar that contained in the Responsibilities Code for the *Police Powers and Responsibilities Act 1997*.

Division 4—Dealing with weapons

Disposal of weapons

Section 434 provides that any time after the appointed day a police officer may deliver a relevant thing being a weapon not forfeited to the State to the person a court has made a order that the weapon be delivered to or if the police officer is satisfied, to someone who is the owner or would be entitled to possess the weapon under the *Weapons Act 1990* or a person nominated by the owner or person entitled to possess it.

The weapon may only be delivered to a person mentioned in the section if the person satisfies the police officer who has the weapon that the person may lawfully possess the weapon.

This section replaces section 312 of the PPRA 2000, and the earlier section 154 of the *Weapons Act 1990*.

What is the appointed day for disposal of weapons under s 436

Section 435 provides the appointed day for disposal of weapon is the day the weapon was seized or for a weapon seized because of a contravention or suspected contravention of the *Weapons Act 1990*. The appointed day is the later of 6 months after the day the weapon was seized or the time of the final determination of all proceedings relating to the offence or suspected offence.

The section replaces section 313 of the PPRA 2000.

Division 5—Dealing with other things

Perishable things

Section 436 applies to relevant things that are perishable and the thing cannot be returned to the owner or person who had lawful possession before it came into the possession of police, or the owner or person who had lawful possession cannot be contacted.

Subsection (2) provides that the thing may be disposed of by a police officer or property officer in a way that does not cause an actual or apparent conflict of interest and benefits the community. If the property officer reasonably suspects the thing is unfit for human consumption or it is impracticable to dispose of the thing in this way, the thing must be disposed of in a way that does not cause danger to a person or the community generally.

The provision is similar that contained in the Responsibilities Code for the *Police Powers and Responsibilities Act 1997*.

Division 6—Forfeiture

Application of div 6

Section 437 indicates division 6 applies to a relevant thing that has not been forfeited to the State.

Order for forfeiture of particular relevant things

Section 438 provides that the Commissioner may order the forfeiture to the State a thing that has been in the possession of the police service for at least 60 days.

The Commissioner may order the forfeiture only if the Commissioner is unable to return the thing to the owner after making reasonable efforts or the Commissioner is satisfied the owner cannot be found after reasonable inquiries or it is not reasonable to make inquiries about the owner.

Order for forfeiture of relevant things connected with offences

Section 439 provides the Commissioner may order the forfeiture of a relevant thing to the State if satisfied the thing has been used in the commission of an offence, it is necessary to retain the thing to prevent it being used in the commission of an offence or possession of the thing is an offence unless authorised, justified or excused by law.

The section further states that the Commissioner must not order the forfeiture unless satisfied reasonable steps have been taken to give the person who appears to be the owner or in possession of the thing before it was seized a notice stating the thing may be forfeited to the State. The notice must also state that the person may apply to a magistrate under section 426 for an order to return the thing and if the application is not made to a magistrate within 30 days the Commissioner may order the forfeiture.

The Commissioner may not order forfeiture if an application is made under section 426 unless the magistrate refuses to order the things return to the applicant or the application is withdrawn, whichever happens first.

Division 7—Dealing with forfeited things

Application of div 7

Section 440 indicates division 7 applies if a thing is forfeited to the State or ordered to be forfeited to the State. the section further states division 7 applies only after the end of all proceedings relating to the offence or suspected offence for which the thing was forfeited.

Dealing with forfeited things

Section 441 provides that on forfeiture to the State the things becomes the property of the State and may be dealt with by the Commissioner as the Commissioner considers appropriate subject to any direction given under the *Police Service Administration Act 1990*. The section includes the Commissioner may consider destroying or disposing of the thing.

Subsection (3) indicates if the thing is sold the proceeds are to be paid first in meeting the expense of the sale, second in meeting the expense of the seizure and storage of the thing and the remainder to the consolidated fund or in certain circumstances to the unclaimed moneys fund under the *Public Trustee Act 1978*.

Division 8—Arrangements about relevant things

Ministerial arrangements for transmission and return of seized things

Section 442 provides the Minister may enter into arrangements with a Minister of another State or Territory responsible for the administration of a law declared by a regulation to be a corresponding law for this section.

The section provides a thing seized under this Act that may be relevant to the investigation of an offence against the law of the State or Territory of the corresponding law is to be given to a law enforcement agency in the State or Territory for the investigation of or the proceedings for the offence. When no longer required it is to be returned unless disposed of by order or direction of a court.

The section further provides a thing seized under the corresponding law that may be relevant to the investigation of an offence against the law of Queensland is to be given to the Commissioner for the investigation of, or the proceedings for, the offence and when no longer required be returned unless disposed of by order or direction of a court.

A thing returned to a law enforcement agency under an arrangement is a relevant thing for which an application can be made under section 426.

Commissioner may make arrangements

Section 443 provides the Commissioner may, under arrangement with the chief executive of a department or chief executive officer of another agency transfer the possession of a relevant thing to that chief executive or chief executive officer if in the circumstances it would be appropriate for the thing to be dealt with under another Act.

Renumbering of ss 356-393

Clause 25 renumbers sections 356 to 393 as sections 444 to 481.

Amendment of sch 1 (Acts not affected by this Act)

Clause 26 includes the *Child Protection Act 1999* as an Act not affected by the *Police Powers and Responsibilities Act 2000*.

Amendment of sch 3 (Acts amended after assent)

Clause 27 amends schedule 3 of the PPRA 2000 by inserting a new subsection (1B) in amendment number 3. The amendment to the *Bail Act 1980* provides for the release of a person without bail who is charged with being drunk in a public place if it is intended to move the person to a place of safety, or the release of a person without bail who is charged with a drug offence if the person agrees to a drug diversion assessment program.

The clause also amends schedule 3 of the PPRA 2000, to alter a cross reference in an amendment to the Criminal Justice Act 1989, that is necessary as a consequence to the renumbering to the PPRA 2000.

The clause also amends schedule 4 of the PPRA 2000 by inserting an amendment to the *Environmental Protection Act 1994* and the *Police Service Administration Act 1990*.

The Clause also provides an amendment to the *Gaming Machine and Other Acts Amendment Act 1999* as a result of the consolidation of police powers from the *Gaming machining Act 1991*.

Amendment of sch 4 (Dictionary)

Clause 28 provides amendments to the Dictionary to the PPRA 2000. The definitions of "entity", "police officer" and "weapon" are replaced and a series of new definitions inserted. These definitions are necessary to compliment the Bill.

PART 3—AMENDMENT OF *DRUGS MISUSE ACT 1986*

Act amended in pt 3

Clause 29 provides that this part amends the *Drugs Misuse Act 1986*.

Amendment of s 32 (Forfeiture of dangerous drugs)

Clause 30 amends section 32 of the *Drugs Misuse Act 1986*—

- by removing the need to produce a thing the subject of a forfeiture application, as the things described comprise of illicit drug laboratories that may be dangerous to handle;
- allows a court to forfeit a thing alleged to be a drug before the end of a proceeding where the person charged admits to the court that the thing is a drug or to the quantity of the thing seized, enabling the early disposal of the drug;
- omits subsection (6) as the disposal of forfeited things is provided under the new part dealing with things seized.

PART 4—AMENDMENT OF *JUSTICES ACT 1886*

Act amended in pt 4

Clause 31 provides that part 4 amends the *Justices Act 1886*.

Amendment of s 39 (Power of court to order delivery of certain property)

Clause 32 amends section 39 of the *Justices Act 1886* to remove reference to police officers. A definition of public officer is included to enable the section to apply to police officers where the thing seized in the possession of the CJC or the QCC.

PART 5—AMENDMENT OF *JUVENILE JUSTICE ACT 1992*

Act amended in pt 5

Clause 33 provides that this part amends the *Juvenile Justice Act 1992*.

Amendment of s 19 (Police officer to consider alternatives to proceeding against child)

Clause 34 amends section 19 of the *Juvenile Justice Act 1992* to permit drug diversion assessment programs to be considered as an alternative to dealing with children.

Amendment of s 226 (Preservation of confidentiality)

Clause 35 amends section 226 of the *Juvenile Justice Act 1992* to provide for the use of information obtained which is relevant to drug diversion assessment programs.

PART 6—AMENDMENT OF *POLICE SERVICE ADMINISTRATION ACT 1990*

Act amended in pt 6

Clause 35 provides that this part amends the *Police Service Administration Act 1990*.

Amendment of s 10.1

Clause 37 amends section 10.1 of the *Police Service Administration Act 1990* by renumbering and including a new paragraph (c). The paragraph permits the disclosure of information in the possession of the Police Service relating to drug diversion assessment programs to the chief executive officer of Queensland Health.

PART 7—AMENDMENT OF *PROSTITUTION ACT 1999*

Act amended in pt 7

Clause 38 provides that this part amends the *Prostitution Act 1999*.

Amendment of s 60 (Powers after entry)

Clause 39 provides a consequential amendment as a result of the *Police Powers and Responsibilities Act 2000*.

Amendment of s 75 (exception to soliciting offences—police officers)

Clause 40 provides a consequential amendment as a result of the *Police Powers and Responsibilities Act 2000*.

Amendment of sch 3 (Amendment of other Acts and regulations)

Clause 41 provides a consequential amendment as a result of the *Police Powers and Responsibilities Act 2000*.

SCHEDULE

MINOR AMENDMENTS TO POLICE POWERS AND RESPONSIBILITIES ACT 2000

Consequential amendments

Clauses 1 to 78 provide for renumbering of sections referred to in the *Police Powers and Responsibilities Act 2000* and other Acts which have been altered as a result of the Bill.