

# Corrective Services and Other Legislation Amendment Bill 2020

## Explanatory Notes

### Short title

The short title of the Bill is the *Corrective Services and Other Legislation Amendment Bill 2020* (the Bill).

### Policy objectives and the reasons for them

The objective of the Bill is to respond to the immediate risks identified in the Crime and Corruption Commission's *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland's prisons* (Taskforce Flaxton), support the Government's implementation of recommendations from the Queensland Parole System Review (QPSR), and improve operational efficiencies for Queensland Corrective Services (QCS) and the Parole Board Queensland (PBQ).

The Bill creates a permanent firearms amnesty in support of a 2019 resolution of the Ministerial Council for Police and Emergency Management to establish a national permanent firearms amnesty.

It also includes amendments that support the implementation of the Queensland Police Service (QPS) policy on replica firearms, and makes a minor technical amendment to the *Racing Integrity Act 2016* and the *Racing Integrity Regulation 2016*.

#### Amendments to the *Corrective Services Act 2006*

In 2019, the Government supported or supported-in-principle all 33 recommendations made in the Crime and Corruption Commission's Taskforce Flaxton Report. In order to better prevent, detect and deal with corrupt conduct in Queensland corrective services facilities, a number of amendments to the *Corrective Services Act 2006* (CS Act) were identified as immediate priorities to assist QCS to execute its duties to address corruption within the organisation.

These amendments include:

- Authorising the chief executive to require corrective services staff to submit to alcohol and drug testing (recommendation 18).
- Granting broader powers to search staff working in corrective services facilities (recommendation 20).
- Improving property and exhibit management policies and practices to decrease corruption risk (recommendation 22).
- Broadening the remit of the Ethical Standards Unit to provide prevention and early intervention, professional standards, integrity policy framework, complaints management, investigation, discipline system, witness support,

critical incidents, covert operations and risk management (recommendation 30(a)).

- QCS and the QPS collaboratively reviewing the service delivery model used to investigate criminal offences in prisons and ensuring that only appropriate incidents are referred to the QPS for investigation (recommendation 32(b)).
- Addressing the risk of inappropriate relationships between staff and prisoners or offenders to prevent corrupt conduct and build robust integrity and professional standards in QCS (recommendation 11).

The Bill introduces a new offence prohibiting a staff member from having an intimate relationship with a prisoner or offender. This offence includes sexual conduct or other physical expressions of affection or sexual contact, or the exchange of written or other forms of communications of a sexual nature. The offence does not apply if the staff member could not have reasonably known the person was an offender or if the intimate relationship commenced before the person was a prisoner or offender. The offence will attract a maximum penalty of 100 penalty units or 3 years imprisonment to reflect the severity of the behaviour.

The Bill also introduces a new offence to prohibit an offender from removing or tampering with an electronic monitoring device, without a reasonable excuse, with a maximum penalty of 30 penalty units, 3 months imprisonment. The new offence is intended to provide consistency with similar existing offences in the *Bail Act 1980* and the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

The new alcohol and drug testing regime for QCS staff includes a new offence to prohibit interference with a test sample given by a corrective services officer or a corrective services recruit. The offence will attract a maximum penalty of 100 penalty units in line with a similar offence in the *Police Service Administration Act 1990*.

The Bill includes a number of amendments that ensure corrective services legislation is responsive and flexible, supports effective rehabilitation and reintegration, and reflects contemporary best practice and broader community expectations. These amendments include:

- Allowing flexibility in the management of prisoners subject to maximum security orders, to allow a prisoner to be accommodated in a location other than a maximum security unit, and providing that a maximum security order can be suspended while a prisoner is outside QCS's custody.
- Extending early and late discharge provisions to also include prisoners being released from custody on parole.
- Providing clarity and consistency on a corrective services officer's power to execute a warrant and arrest a prisoner unlawfully at large.
- Clarifying QCS's authority to prevent inappropriate payments into a prisoner's trust account.
- Facilitating collaboration between QCS and law enforcement agencies in Queensland and other Australian jurisdictions.

The Bill includes a number of minor amendments identified by the PBQ to improve the efficiency of functions of the PBQ and ‘No Body, No Parole’ laws. These amendments include:

- Ensuring the PBQ is able to effectively and efficiently consider ‘No Body, No Parole’ matters.
- Ensuring a more consistent, accountable and deliberate approach for the PBQ hearing of ‘No Body, No Parole’ matters.
- Improving PBQ operational efficiency by allowing the PBQ to cancel a parole order at the same time it considers suspending a parole order.

The Bill implements QPSR recommendation 85, to allow a person registered on the Victims Register to apply to the PBQ for an extension of the 21-day period allowed to provide submissions. It also implements the Government’s position on recommendation 58, restricting prisoners convicted of a sexual offence, murder or serving a life sentence from placement in a low custody facility. Further amendments support implementation of QPSR recommendations 33, 59 and 81.

### Amendments to the *Weapons Act 1990*

#### *Permanent Firearms Amnesty*

In November 2019 the Ministerial Council for Police and Emergency Management passed a resolution agreeing to the establishment of a permanent national firearms amnesty. Amendments contained in the Bill give effect to this resolution in Queensland. The aim of a permanent firearms amnesty is to improve public safety by reducing the number of unregistered firearms and firearm-related articles in the community. Allowing people to hand in such items without fear of prosecution removes a significant barrier to firearms and other related items being relinquished, resulting in fewer in the community.

Previous, temporary, firearms amnesties have enabled items to be handed in at either firearms dealers or police stations. This proved an effective way of encouraging participation in the scheme.

The permanent amnesty will continue this practice. Firearms, and other prescribed items, will be able to be handed in to either an approved licensed dealer or a police station. An approved licensed dealer will be one approved by the Commissioner. This limits the firearms dealers participating in the scheme to those willing to undertake the role, and to those best equipped to do so.

Incorporating both approved firearms dealers and police stations, provides a larger number of locations that members of the public can hand in the firearm and enables persons who may be hesitant to attend a police station with an alternative drop off point.

Under the provisions a person cannot be prosecuted for the possession of the item if they are at, or proceeding directly to, a police station or approved firearms dealer for the purpose of relinquishing the item.

The protection from prosecution extends only to the offence of possessing the firearm, or other item, and not to any other offences that may be associated with it.

The Bill also provides an additional subject matter for the weapons regulation in relation to the firearms amnesty. The clause provides that a regulation can regulate the things and conditions under a section 168B firearms amnesty. This ensures that the day to day machinery matters associated with the firearms amnesty are appropriately captured within the regulation.

*Meaning of 'reasonable excuse' for possession of replica firearms*

The Bill contains amendments which support a new policy regulating the acquisition and possession of replicas of firearms introduced in response to a rise in the number of incidents of the misuse of such items in the community. The regulation of replica firearms is brought about through amendments to the *Weapons Categories Regulation 1997* by classifying replicas of firearms as 'restricted items'. These amendments are to be made separately to this Bill.

Section 67, of the *Weapons Act* makes it an offence to acquire or possess a restricted item without a 'reasonable excuse'. Whether something is or is not a reasonable excuse will depend on all the circumstances at the time. It is essentially whether a reasonable person would consider it a reasonable excuse to possess the item. Ultimately, whether something is or is not a reasonable excuse is a matter to be determined by a court.

The amendments contained in the Bill are aimed at clarifying certain circumstances that constitute a reasonable excuse, without limiting what other circumstances may also be a reasonable excuse.

The Government acknowledges that there are some legitimate uses for replica firearms and their possession in the community. The amendments clarify that it is a reasonable excuse to possess replica firearms (such as gel blasters) if the person is a member of a club carrying out recreational activities involving these devices.

For this provision to have effect, not only must a person be a member of such an association, but their possession of the item must be for the purpose of taking part in the activities of that club.

The association may be incorporated or unincorporated to allow for inclusion of clubs that are not commercial in nature. It is intended, however, that the association be formal in nature with a degree of organisation and structure and that it be something to which formal membership is possible, rather than an informal or ad hoc group.

The amendment links the meaning of 'association' to the meaning of the term in the *Associations Incorporation Act 1981*, which refers to the body being formed 'for a lawful purpose'. This limits the provision to groups who carry out activities lawfully and, as such, precludes activities involving the use of replica firearms in a public place since exposing a replica firearm to view in a public place is unlawful.

The amendments also provide that it is a reasonable excuse for the holder of a collector's licence to acquire or possess a replica firearm, or a deactivated firearm that would, if not deactivated, be a category A, B, or C weapon, if it is possessed as part of their collection. This provision will enable museums and other licenced weapons collectors to acquire and retain possession of these items under their licence.

Amendment to the *Weapons Regulation 2016*

*Permanent Firearms Amnesty*

The Bill amends the *Weapons Regulation 2016* by providing that for the purposes of the firearms amnesty under section 168B, a person must notify the relevant approved licensed dealer or police station of their intention to surrender a firearm or prescribed thing prior to taking it to that location unless they have a reasonable excuse.

The amendment reduces the risk of persons intercepted by police while unlawfully in possession of a firearm or prescribed thing being able to falsely rely on the firearms amnesty to avoid prosecution.

The provision applies unless a person has a reasonable excuse. This provides for circumstances that may arise in which it is impracticable to have notified the approved licensed dealer or police station in advance.

Amendment to the *Racing Integrity Act 2016*

A relocation of current section 98A of the *Racing Integrity Act 2016* from chapter 4 headed 'Racing Bookmakers' to another location in the legislation is required to clarify that information sharing arrangements may be entered into with a relevant agency for the purposes of all Racing Integrity Commission functions. Currently there may be a perception that information sharing arrangements are limited to information related to racing bookmakers and associates.

## **Achievement of policy objectives**

The Bill achieves these objectives by amendments which include:

Amendments to the *Corrective Services Act 2006*

*Taskforce Flaxton*

- Providing the chief executive with the authority to require a corrective services officer or corrective services recruit to submit to alcohol or drug testing.
- Providing the chief executive with the authority to require a staff member to submit to a search before they enter and at any time they are at a corrective services facility.
- Providing clear authority for QCS to destroy or dispose of forfeited things that are not considered inherently unsafe.
- Authorising the appointment, role and function of inspectors to investigate misconduct or corrupt conduct alleged against a staff member.
- Providing the chief executive with discretion to decide whether to refer a matter that could be dealt with either as an offence or as a breach of discipline to the Queensland Police Service Commissioner. Sexual offences and offences with a maximum penalty of 14 years or more must be referred to the Commissioner of police.

*New Offences*

- The Bill creates a new offence prohibiting a staff member from having an intimate relationship with a prisoner or offender.
- The Bill creates a new offence for offenders who remove or tamper with an electronic monitoring device, to deter this behaviour.
- The Bill creates a new offence prohibiting interference with a sample given by a corrective services officer or corrective services recruit.

#### *Queensland Parole System Review*

The Bill makes amendments to support implementation of recommendations of the QPSR and implements the Government's response to recommendation 58, including:

- Allowing persons registered on the Victims Register to apply to the PBQ for an extension of time to provide a submission.
- Providing flexibility for prisoners who are parent or kin to have access to compassionate leave to establish and maintain relationships with children.
- Providing that a person on the Victims Register will be notified of a prisoner's discharge or release as soon as practicable after QCS is made aware.
- Clarifying that prisoners convicted of a sexual offence, murder or serving a life sentence are ineligible for transfer from a secure facility to a low custody facility.

#### *Safer community and correctional environments*

The Bill also achieves the objective of improving efficiencies for QCS by:

- Allowing a prisoner on a maximum security order (MSO) to be accommodated in a location other than a maximum security unit, and clarifying that an MSO can be put on hold while a prisoner is not in QCS's custody.
- Removing the requirement that a prisoner must possess a corrective services order when on parole, at a work camp, or on a leave of absence from a corrective services facility.
- Expanding early and late discharge provisions to also include prisoners being released from a corrective services facility on parole.
- Providing clarity on the authority of a corrective services officer to execute a warrant and arrest a prisoner unlawfully at large.
- Providing the express authority for the chief executive to approve or refuse deposits into a prisoner's trust account.
- Repealing the requirement for doctors to be appointed for each corrective services facility under the CS Act and replacing references to medical services, as the 2008 change in administrative arrangements relating to offender health services made these provisions redundant.
- Expanding the definition of a law enforcement agency to enable criminal justice agencies to perform their function as established in law.
- Repealing outdated provisions that are no longer applicable or have been abolished, and amending administrative and technical inconsistencies.

#### *Parole Board Queensland and 'No Body, No Parole' laws*

- Providing that the PBQ must have regard to transcripts of a proceeding against a prisoner for the offence which are relevant to the prisoner's cooperation in the location of victim's remains under the 'No Body, No Parole' scheme.

- Clarifying that the PBQ is to sit with a quorum of five members when considering ‘No Body, No Parole’ matters and streamlining quorum requirements for matters that do not involve a prescribed prisoner’s parole application.
- Allowing the PBQ to determine when a reconsidered decision to suspend or cancel a parole order takes effect.
- Ensuring the PBQ is able to prioritise immediate suspension request considerations and decisions.
- Enabling the PBQ to also cancel a parole order following a request by QCS for an immediate suspension.
- Authorising the Governor in Council to appoint an acting prescribed board member for up to 12 months (increased from 3 months).
- Removing the requirement for an officer of the secretariat to be prescribed by regulation.

#### Amendment to the *Criminal Code*

The Bill amends the Criminal Code to clarify that corrective services officers who are the victims of a serious assault have the same level of protection as any other public officer.

#### Amendments to the *Weapons Act 1990*

##### *Permanent Amnesty*

The Bill will amend the *Weapons Act 1990* to provide a permanent firearms amnesty by:

- Replacing the existing section 168B and replacing it with a provision that provides that a person unlawfully in possession of a firearm, or prescribed items, will not be prosecuted for the possession of the item if they are at, or proceeding directly to, a police station or approved firearms dealer to relinquish it.
- Providing that for this provision to apply the person must also comply with any condition in regulation regarding taking it to these locations.
- Prescribed items are to include a magazine for a weapon, a category R weapon that is not a firearm and any items prescribed in regulation.
- Including a provision that states that the requirement for a licenced dealer to obtain a person’s personal details does not apply if they receive an item anonymously under this amnesty provision. The licensed dealer must, however, then give the item received to police.
- Including a definition of ‘approved licensed dealer’ to include licensed dealers listed as ‘approved licensed dealers’ on the QPS website.
- Clarifying that items surrendered to a police station will be forfeited to the State.

##### *Meaning of ‘reasonable excuse’ for replica firearms*

The Bill will amend the Weapons Act to clarify the meaning of ‘reasonable excuse’ by:

- Amending section 67 to provide that it is a reasonable excuse for a person to possess or acquire a replica of a firearm if they are a member of an association

carrying out recreational activities and the item is possessed for the purpose of carrying out these activities.

- Amending section 67 to provide that it is a reasonable excuse to possess a replica of a firearm or a weapon, that is permanently inoperable and would be, if it were not permanently inoperable, a category A, B or C weapon, if the person is the holder of a collector's licence and the person's reason for possession is for it to be part of the persons collection of weapons.
- Clarifying that the inclusion of these circumstances do not limit what other circumstances may constitute a reasonable excuse.
- Clarifying that a relevant association carrying out recreational activities may be either incorporated or unincorporated and that 'association' has the meaning provided in the *Associations Incorporation Act 1981*.
- Clarifying that the activities must be carried out in a place, other than in a public place, and in a manner not reasonably able to be seen from a public place.

#### Amendment to the *Racing Integrity Act 2016*

The Bill will achieve its objective by relocating section 98A (Exchange of information) of the *Racing Integrity Act 2016* from chapter 4 headed 'Racing Bookmakers' to new part 6A (Information sharing) of chapter 2 headed 'Queensland Racing Integrity Commission'. The relocation of section 98A to chapter 2 will clarify that the Racing Integrity Commission's ability to exchange information with a relevant agency applies to all functions of the Commission and is not limited to information related only to racing bookmakers and associates.

The Bill will renumber section 98A to section 53A and include consequential amendments to update the cross references in the relevant provisions in the Act and Regulation.

### **Alternative ways of achieving policy objectives**

There are no alternative ways to achieve the policy objectives.

### **Estimated cost for government implementation**

There are no anticipated costs to government in implementing the Bill.

Any costs incurred through the implementation of the *Weapons Act* amendments will be met through existing budgets.

### **Consistency with fundamental legislative principles**

The Bill is considered consistent with fundamental legislative principles as per section 4(2) of the *Legislative Standards Act 1992*.

Amendments in the Bill, such as introducing an offence to prohibit removal or tampering with a monitoring device, clarifying that the chief executive may approve or refuse funds into a prisoner's trust account and restricting the placement of certain



prisoners may be considered inconsistent with fundamental legislative principles. However, these are considered justified in that the amendments reflect community expectations, appropriate management of prisoners and offenders, and community safety.

The *Weapons Act* amendments contained in the Bill have sufficient regard to the rights and liberties of individuals and the institution of Parliament and has been drafted with due regard to the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

## **Consultation**

### Amendments to the *Corrective Services Act 2006*

A consultation draft of the Bill was provided to the Crime and Corruption Commission and the Parole Board Queensland.

The following key stakeholders were consulted on the amendments to the CS Act, included in the Bill: Aboriginal and Torres Strait Islander Legal Services (QLD), Aboriginal and Torres Strait Islander Women's Legal Services NQ Inc, Bar Association of Queensland, District Court of Queensland, Magistrates Court of Queensland, Supreme Court of Queensland, Legal Aid Queensland, Office of the Director of Public Prosecutions, Prisoners Legal Service, Queensland Court of Appeal, Queensland Indigenous Family Violence Legal Service, Queensland Law Society, Women's Legal Service Queensland, Bravehearts, Protect All Children Today Queensland, Queensland Council for Civil Liberties, Queensland Homicide Victims Support Group, Sisters Inside and Together Union.

Stakeholder feedback has been taken into account in finalising the Bill.

### Amendments to the *Weapons Act 1990*

Firearm and gel blaster industry stakeholders were consulted on the content of the replica firearm policy at the Minister for Police and Minister for Corrective Services Firearms Advisory Forum. Representatives of the Firearms Dealers association and Shooters Union were consulted about establishing a permanent firearms amnesty.

Community feedback was also collected through an online response portal managed by Smart Service Queensland. The survey commenced on 10 February 2020 for a period of four weeks.

Stakeholder feedback has been taken into account in finalising the Bill.

### Amendment to the *Racing Integrity Act 2016*

No external consultation was undertaken as there was no change in policy and the amendment only involves relocating an existing provision.

# Notes on provisions

## Part 1 Preliminary

### 1 Short title

*Clause 1* states that, when enacted, the Bill will be cited as the *Corrective Services and Other Legislation Amendment Act 2020*.

### 2 Commencement

*Clause 2* states those parts of the Bill that will commence on a date to be fixed by proclamation.

## Part 2 Amendment of Corrective Services Act 2006

### 3 Act amended

*Clause 3* states that this part amends the *Corrective Services Act 2006*.

### 4 Amendment of s 60 (Maximum security order)

*Clause 4* inserts a new section 60(1A) to allow a prisoner subject to a maximum security order to be accommodated for whole or part of the period of the order in an area other than a maximum security unit within a corrective services facility.

### 5 Amendment of s 62 (Other matters about maximum security order)

*Clause 5* amends section 62 to ensure that the amendments made to clause 4 apply to this section.

### 6 Insertion of new s 63A

*Clause 6* inserts a new section 63A to provide that if a prisoner subject to a maximum security order is required to be transferred outside of the chief executive's custody, for example under section 68(5) to The Park: Centre for Mental Health, the maximum security order is suspended while the prisoner is in the other person's custody.

Subclause (3) makes it clear that the suspension ends when the prisoner returns to the chief executive's custody.

Subclause (4) provides that within seven days after the prisoner returns to the corrective services facility, the chief executive must review and confirm, amend or cancel the maximum security order.

### 7 Amendment of s 65 (Record)

*Clause 7* amends section 65 to require the date a maximum security order is suspended and the date the maximum security order suspension ends to be recorded.

## **8 Amendment of s 66 (Work order)**

*Clause 8* omits the requirement for a prisoner to keep a copy of their work order in their possession and, if asked by a corrective services officer or police officer, produce the copy of the order for inspection. This requirement is redundant due to advances in technology and information sharing between agencies.

## **9 Amendment of s 67 (Restriction on eligibility for transfer to work camp)**

*Clause 9* is a consequential amendment made in clause 11.

## **10 Amendment of s 68 (Transfer to another corrective services facility or a health institution)**

*Clause 10* is a consequential amendment made in clause 11.

## **11 Insertion of new s 68A**

*Clause 11* inserts a new section 68A to provide that a prisoner convicted of a sexual offence, murder or serving a life sentence is not eligible to be transferred to a low custody corrective services facility.

The reference to a ‘sexual offence’ means an offence mentioned in schedule 1 of the Act, or an offence against a law applying or that applied in another jurisdiction that substantially corresponds to an offence in schedule 1, as defined in the dictionary and amended by clause 53.

Subclause (2) makes it clear that this section is subject to a declaration of emergency under section 268 and is consequential to the amendment made in clause 41.

Subclause (3) inserts a new definition of ‘low custody facility’ to mean a prison, other than a secure facility, a community corrections centre or a work camp. Low custody facilities include, for example, the Helana Jones Centre, Numinbah Correctional Centre, Palen Creek Correctional Centre, Capricornia Correctional Centre Farm, Townsville Correctional Centre Farms, and the Lotus Glen Correctional Centre Farm.

## **12 Amendment of s 73 (Compassionate leave)**

*Clause 12* inserts a new section 73(1)(e) to enable a prisoner who is a child’s parent or kin, to be granted compassionate leave to establish or maintain a relationship with the child.

Subclause (2) inserts a new definition of ‘kin’ with reference to the definition in the *Child Protection Act 1999*, schedule 3.

## **13 Amendment of s 84 (Prisoner’s duties while on leave)**

*Clause 13* omits the requirement for a prisoner to keep a copy of their leave of absence order in their possession and, if asked by a corrective services officer or

police officer, produce the copy of the order for inspection. This requirement is redundant due to advances in technology and information sharing between agencies.

#### **14 Omission of ch 2, pt 2, div 10 (Conditional release)**

*Clause 14* omits provisions associated with conditional release. These sections are redundant due to the conditional release eligibility criteria described within section 97(1).

#### **15 Insertion of new s 110A**

*Clause 15* inserts a new provision that allows the chief executive to release a prisoner from custody early on parole. This ability is restricted to releasing a prisoner within seven days immediately before their parole release day and mirrors the existing section 110 which provides for early discharge.

Subclause (2) makes it clear that the prisoner is subject to the conditions of the parole order upon release from custody.

#### **16 Amendment of s 111 (Remaining in corrective services facility after discharge day)**

*Clause 16* amends section 111 to allow a prisoner to apply to remain in a corrective services facility after their release day.

Subclause (4) inserts a new definition of ‘release day’ for this section, meaning the day on which a prisoner is to be released on parole.

#### **17 Amendment of s 114 (Breach of discipline constituting an offence)**

*Clause 17* amends section 114 to provide the chief executive with discretion as to whether to refer a matter to the Queensland Police Service Commissioner. If the chief executive decides to refer the matter, the referral must occur within 48 hours. The prisoner must also be told that the matter has been referred to the Queensland Police Service Commissioner within 48 hours.

Subclause (3) includes an internal limitation on the discretion to ensure that where a matter could be prosecuted as a sexual offence pursuant to schedule 1 or as an offence that has a maximum penalty of 14 years or more imprisonment, the matter must be referred to the Queensland Police Service Commissioner.

#### **18 Amendment of s 138 (Seizing property)**

*Clause 18* amends section 138 to make it clear that the requirements under section 140(6) do not apply to an item seized if the matter has been referred to the Queensland Police Service Commissioner under section 114.

### **19 Amendment of s 140 (Forfeiting seized thing)**

*Clause 19* amends section 140 to clarify that a thing forfeited under this section can be destroyed.

### **20 Amendment of s 173 (Search of staff member)**

*Clause 20* amends section 173 to allow the chief executive to also require a staff member to submit to a general search or scanning search at any time the staff member is at a corrective services facility.

Subclause (2) extends the ability for the chief executive to direct a staff member to leave a corrective services facility if they refuse to submit to a scanning search.

### **21 Insertion of new s 173A**

*Clause 21* creates a new offence prohibiting a staff member from having an intimate relationship with an offender. The offence recognises that an intimate relationship can include either or both sexual conduct, other physical expressions of affection or sexual contact, or the exchange of written or other forms of communications of a sexual or intimate nature.

The reference to ‘staff member’ means an employee of the department, an engaged service provider or a corrective services officer, as defined in the dictionary.

The reference to ‘offender’ means a prisoner or a person subject to a community based order, as defined in the dictionary (and as amended by clause 53).

The maximum penalty for this offence is 100 penalty units or 3 years imprisonment.

Subclause (3) provides that the offence does not apply if the staff member does not know or could not reasonably have known that the person was an offender, or the intimate relationship existed before the person became an offender.

### **22 Insertion of new ch 4, pt 5**

*Clause 22* provides that a corrective services officer conducting a scanning search must ensure, as far as reasonably practicable, the way the person is searched causes minimal embarrassment to the person, and that reasonable care is given to minimise any physical contact with the person.

### **23 Amendment of s 188 (Submission from eligible person)**

*Clause 23* allows an eligible person to apply for an extension of time for making written submissions to the Parole Board Queensland. The Parole Board Queensland may grant an extension of time if considered reasonable in the circumstances.

Existing parole consideration timeframes provided for under section 193 still apply.

**24 Amendment of s 193A (Deciding particular applications where victim's body or remains have not been located)**

*Clause 24* amends section 193A(7)(a) to clarify that the Parole Board Queensland is required to have regard to relevant remarks made by the court that sentenced the prisoner to the eligible homicide offence and transcripts of proceedings for the offence as requested by the prisoner.

The reference to 'transcript of a proceeding' means a transcription of a record under the *Recording of Evidence Act 1962* of the proceeding.

**25 Amendment of s 193E (Reports about prisoners' links to terrorism)**

*Clause 25* omits the references to the Australian Security Intelligence Organisation and an immigration and border protection department under section 193E. These are no longer required to be prescribed under section 193E following amendment of the law enforcement definition in the dictionary, as amended by clause 53.

**26 Amendment of s 194 (Types of parole orders granted by parole board)**

*Clause 26* omits the requirement for a prisoner to keep a copy of their parole order in their possession and, if asked by a corrective services officer or police officer, produce the copy of the order for inspection. This requirement is redundant due to advances in technology and information sharing between agencies.

**27 Amendment of s 199 (Court ordered parole order)**

*Clause 27* omits the requirement for a prisoner to keep a copy of their parole order in their possession and, if asked by a corrective services officer or police officer, produce the copy of the order for inspection. This requirement is redundant due to advances in technology and information sharing between agencies.

**28 Amendment of s 200A (Directions to prisoners subject to parole order)**

*Clause 28* amends section 200A(2)(c) to clarify that a corrective services officer may direct the prisoner to allow the installation of a device or equipment at a stated place, including, for example, the place where the prisoner resides.

Subclause (2) inserts a note to make it clear that the new offence provided for in section 267 (clause 40) also applies to an offender directed to wear a stated device or permit the installation of the device under this section.

**29 Amendment of s 206 (Warrant for prisoner's arrest)**

*Clause 29* inserts notes to clarify that section 112 provides for the power of the Parole Board Queensland, a magistrate or the chief executive to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and their parole order is

suspended or cancelled, and the power of a corrective services officer to arrest a prisoner without warrant in these circumstances.

**30 Amendment of s 208 (Reconsidering decision to suspend or cancel parole order)**

*Clause 30* clarifies that if the Parole Board Queensland changes its decision to suspend or cancel a prisoner's parole order, the changed decision has effect on the day stated in the written notice.

**31 Amendment of s 208B (Parole board or prescribed board member may suspend parole order and issue warrant)**

*Clause 31* clarifies that the Parole Board Queensland may also cancel a prisoner's parole order following an immediate suspension request from the chief executive under section 208A. A decision to cancel is taken to have been made under section 205(2).

Subclause (2) amends the timeframe for the Parole Board Queensland or prescribed board member to consider a request made under section 208A, from 'as a matter of urgency' to as soon as practicable.

Subclause (2) also makes it clear that the Parole Board Queensland or prescribed board member can decide the priority for considering requests for immediate suspension made under section 208A, having regard to the seriousness of the nature of the grounds on which the requests are made.

Subclauses (3), (4) and (5) are consequential to the amendment.

Subclause (6) omits the requirement for an officer of the Parole Board Queensland secretariat to be prescribed by regulation.

Subclause (7) makes it clear that when arrested, the prisoner is to be taken to a prison and kept there for the suspension period, or required to serve the unexpired portion of the prisoner's period of imprisonment if the parole order is cancelled.

Subclause (7) also inserts notes to clarify that section 112 provides for the power of the Parole Board Queensland, a magistrate or the chief executive to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and their parole order is suspended or cancelled, and the power of a corrective services officer to arrest a prisoner without warrant in these circumstances.

**32 Amendment of s 208C (Parole board must consider suspension by prescribed board member)**

*Clause 32* clarifies that the Parole Board Queensland may also cancel a prisoner's parole order following consideration by the prescribed board member under section 208B. A decision to cancel is taken to have been made under section 205(2).

### **33 Amendment of s 209 (Automatic cancellation of order by further imprisonment)**

*Clause 33* amends section 209 to make it clear that unless subject to section 209(3), if a prisoner commits an offence, in Queensland or elsewhere, during the period of the parole order, and is sentenced to another period of imprisonment for this offence, the parole order is taken to be automatically cancelled on the date the offence occurred, whether or not the prisoner is sentenced to another period of imprisonment before or after the parole order has expired.

Subclause (2) clarifies that subclause (1) applies whether or not the prisoner is sentenced to the other period of imprisonment before or after the parole order has expired. It also clarifies that the new subclause (1) is subject to the operation of sections 205.

### **34 Amendment of s 210 (Warrant for prisoner's arrest)**

*Clause 34* omits the requirement for an officer of the Parole Board Queensland secretariat to be prescribed by regulation.

Subclause (2) inserts notes to clarify that section 112 provides for the power of the Parole Board Queensland, a magistrate or the chief executive, to issue a warrant for a prisoner's arrest if the prisoner is unlawfully at large and their parole order is suspended or cancelled, and the power of a corrective services officer to arrest a prisoner without warrant in these circumstances.

### **35 Amendment of s 211 (Effect of cancellation)**

*Clause 35* inserts a note to clarify that for subsections (1)(a), (b), (c) and (d), sections 208B(6) and 208C(2) are relevant.

### **36 Amendment of s 228 (Acting appointments)**

*Clause 36* increases the duration the Governor in Council may appoint a qualified person to act in the office of a prescribed board member from three months to one year.

### **37 Amendment of s 234 (Meetings about particular matters relating to parole orders)**

*Clause 37* omits the requirements under sections 234(3) to (6) to provide that specific additional Parole Board Queensland quorum requirements are only mandated for a prescribed prisoner's applications for parole.

Subclause (3) amends section 234 to ensure that a prescribed prisoner includes a prisoner captured under 'No Body, No Parole', as mentioned in section 193A(1).

Subclause (4) renumbers section 234(7) following the repeal of sections 234(3) to (6).



### **38 Amendment of s 265 (Administrative procedures)**

*Clause 38* omits an outdated note that references the website of a former department.

Subclause (2) clarifies that the chief executive also does not need to publish an administrative procedure if the publication may compromise the safe or effective management of offenders.

### **39 Amendment of s 266 (Programs and services to help offenders)**

*Clause 39* amends section 266 to clarify that the chief executive must establish ‘or facilitate’ programs or services as listed in paragraphs (a) to (d).

Subclauses (2) and (3) replace the reference to ‘medical’ programs or services with programs or services to support the health and wellbeing of prisoners.

Subclause (4) renumbers paragraphs (aa) to (d) consequential to the amendment to section 266(1).

Subclause (5) omits the example provided for section 266(2) as it is redundant.

The amendments recognise that since 2008, and in accordance with current Administrative Arrangements Orders, Queensland Health has been responsible for the delivery of prisoner health services in all publicly operated corrective services facilities.

### **40 Amendment of s 267 (Monitoring devices)**

*Clause 40* clarifies that the chief executive may direct an offender to wear a stated device, or permit the installation of a device or equipment associated with the device at a stated place, including, for example where the offender resides. This amendment supports existing section 267, which allows the chief executive to require an offender to wear a device to monitor their location if considered reasonably necessary.

Subclause (2) inserts a new offence for an offender to remove or tamper with a monitoring device or associated equipment, without reasonable excuse, if they have been directed to wear a monitoring device under either section 200A or section 267.

The maximum penalty for this offence is 30 penalty units or 3 months imprisonment.

### **41 Amendment of s 268 (Declaration of emergency)**

*Clause 41* clarifies that a declaration of emergency may be made if the chief executive reasonably believes a situation exists that threatens, or is likely to threaten, the security and good order of a prison, or the safety of a prisoner or another person in a prison. This recognises that an event such as a natural disaster may threaten a prison while not occurring specifically at a prison.

Subclause (2) inserts that, with the Minister's approval, the chief executive may declare a place to be a temporary corrective services facility for the period a declaration of emergency is in force.

Subclause (3) ensures that during a declaration of emergency the chief executive may transfer the prisoners to another corrective services facility, including a temporary corrective services facility, and then return the prisoners to the prison. This amendment recognises the potential need during particular emergencies to evacuate a prison to an appropriate alternative location, for the safety of prisoners and staff.

Subclause (4) renumbers paragraphs (aa) to (c) consequential to the amendment to section 268(4).

#### **42 Amendment of s 271 (Delegation of functions of chief executive)**

*Clause 42* amends section 271(1) to prohibit the delegation of the chief executive's power to require a corrective services officer or corrective services officer recruit to submit to a random alcohol or drug test. This amendment is consequential to the amendment in clause 48.

#### **43 Omission of ch 6, pt 5 (Doctors)**

*Clause 43* omits Chapter 6, Part 5 (Doctors), which includes a requirement for the chief executive to appoint at least one doctor for each prison and specifies the doctor's functions.

The amendment recognises that since 2008, and in accordance with current Administrative Arrangements Orders, Queensland Health has been responsible for the delivery of prisoner health services in all publicly operated corrective services facilities.

#### **44 Amendment of s 294 (Appointing inspectors generally)**

*Clause 44* amends section 294(2) to support the appointment of inspectors to investigate misconduct or corrupt conduct alleged against a staff member.

Subclause (2) replaces the reference to a 'probation and parole office' with a 'community corrections office' in this provision to reflect changed terminology within Queensland Corrective Services.

Subclause (3) renumbers paragraphs (aa) to (d) consequential to the amendment to section 294(2).

#### **45 Amendment of s 303 (Inspector's powers generally)**

*Clause 45* amends section 303 to allow an inspector performing a function under 294(2) to enter a corrective services facility or community corrections office at any time.

Subclause (2) replaces the reference to a ‘probation and parole office’ with a ‘community corrections office’ in this provision to reflect changed terminology within Queensland Corrective Services.

#### **46 Amendment of s 304 (Inspector’s power to require information)**

*Clause 46* amends section 304 to also allow an inspector investigating an incident, or alleged misconduct or corrupt conduct of a staff member, to require a person performing a function under the *Corrective Services Act 2006* to provide information about the incident, alleged misconduct or corrupt conduct.

#### **47 Amendment of s 305 (Inspectors’ reports)**

*Clause 47* amends section 305(1) to require an inspector appointed to investigate an incident, misconduct, or corrupt conduct alleged against a staff member, to give a written report to the chief executive stating the result of the investigation and any recommendations.

#### **48 Insertion of new ch 6, pt 9A**

*Clause 48* introduces the authority of the chief executive to require a corrective services officer or corrective services officer recruit to submit to alcohol or drug testing.

New section 306A includes the definitions of key terms for this part, defining ‘alcohol test’, ‘corrective services officer recruit’, ‘corrective services person’, ‘low alcohol limit’, ‘no alcohol limit’, ‘random alcohol test’, ‘random substance test’, ‘sample’, ‘substance test’, ‘targeted substance’, and ‘training program’.

The definition of ‘alcohol test’ means a test used to determine whether a corrective services officer or corrective services officer recruit is over the alcohol limit applying to the person.

The definition of ‘corrective services officer recruit’ means a person who is participating in a training program.

The definition of ‘corrective services person’ is in new section 306B and means a corrective services officer or corrective services officer recruit for this part.

The definition of ‘low alcohol limit’ is in new section 306C(b) and means the concentration of alcohol is less than 0.2g in 210L of breath or 100mL of blood.

The definition of ‘no alcohol limit’ is in new section 306C(a) and means the concentration of alcohol is 0g in 210L of breath or 100mL of blood.

The definition of ‘random alcohol test’ means a test conducted under new section 306F.

The definition of ‘random substance test’ means a test conducted under new section 306K.

The definition of ‘sample’ means for an alcohol test a sample of breath or blood. For a substance test it means a sample of urine or another bodily substance, for example, including, but not limited to, hair, blood or saliva.

The definition of ‘substance test’ means a test used to determine the presence and concentration of a dangerous drug or targeted substance in a sample taken from a corrective services officer or corrective services officer recruit.

The definition of ‘targeted substance’ means:

- a controlled drug, restricted drug or a poison under the *Health Act 1937* that may impair a person’s physical or mental capacity, or
- any other substance that may impair a person’s physical or mental capacity.

The definition of ‘targeted substance’ does not include a ‘dangerous drug’, this definition is in the dictionary, clause 53.

The definition of ‘training program’ means a training program about corrective services which is a requirement for appointment as a corrective services officer under section 275 of the Act.

New section 306B makes it clear that the new provisions apply to a corrective services officer appointed under section 275 of the Act, or a person who is participating in a training program about corrective services with the intention of becoming a corrective services officer appointed under section 275 of the Act.

New section 306C provides for when a corrective services officer or corrective services officer recruit is over the no or low alcohol limit.

New section 306D inserts a new requirement that a corrective services officer or corrective services recruit who is on duty for performing a function or exercising a power under the Act or another Act, must not be over the low alcohol limit. It also inserts a new requirement that a corrective services officer or corrective services recruit who is on duty for performing a function or exercising a power under the Act or another Act, and performing a role prescribed by regulation, must not be over the no alcohol limit. A prescribed role could include, for example, where use of force may be required or a role requiring operation of a vehicle.

Section 306D makes it clear that on duty includes when the person:

- is about to perform the function or exercise the power,
- is performing the function or exercising the power, or
- has just performed the function or exercised the power.

This section applies to all QCS staff appointed as corrective services officers under section 275 of the Act. It includes corrective services officers performing a function or exercising a power under the Act or another Act including, for example, the *Public Service Act 2008*, *Dangerous Prisoners (Sexual Offenders) Act 2003*, or *Penalties and Sentences Act 1992*.

New section 308E inserts a new power for the chief executive to require a corrective services officer or corrective services officer recruit to submit to an alcohol test if they

have been involved in an incident, the chief executive reasonably suspects the person is contravening or has contravened the requirements under new section 306D(1) or (2), or if required to submit to random testing under new section 306F. The chief executive may also require a corrective services officer recruit to submit to an alcohol test before commencing or during a training program to become a corrective services officer.

For section 308E, 'incident' refers to the definition in the dictionary and means the death (other than by natural causes) or serious injury of someone who is in a corrective services facility or subject to a community based order or parole order and under the direct personal supervision of a corrective services officer, an escape or attempted escape from secure custody, a riot or mutiny involving prisoners while in custody, or another event involving prisoners that the chief executive considers requires being investigated by inspectors.

New section 306F inserts a new power for the chief executive to require a corrective services officer or corrective services officer recruit to submit to a random alcohol test. The requirements about when and where a random test may be conducted and other matters relating to the conduct of a random alcohol test are to be prescribed in regulation. This power cannot be delegated, in accordance with the consequential amendment to clause 42.

New section 306G inserts the authority for the types of sample a person may be required to give and the methods for a collection of a sample to be prescribed in regulation. Requirements about who a corrective services officer or corrective services officer recruit is to give a sample test to, and when and where this is required to be given, are to be prescribed in regulation. It also provides that the sample must be dealt with in a way prescribed by regulation.

However, this section does insert a requirement that where a corrective services officer or corrective services officer recruit is required to give a test because they have been involved in an incident, that this test sample must be given as soon as reasonably practicable after the incident happened.

Section 306G also includes an authority for a person administering the test sample to give reasonably necessary directions to the corrective services officer or corrective services officer recruit to facilitate the providing of a sample for an alcohol test.

New section 306H states that if a corrective services officer or corrective services officer recruit fails to give an alcohol test sample they are taken to have been tested and to have been over the allowed limit.

New section 306I inserts a new requirement that a corrective services officer or corrective services officer recruit must not have evidence of a dangerous drug in a sample taken from the person at any time. There is no leeway in terms of any level permitted to be present in the person's sample.

This section also inserts a new requirement that a corrective services officer or corrective service officer recruit must not perform duties in or involving an

operational capacity or critical role if a substance they are lawfully taking impairs their capacity to perform the duties without danger to themselves or someone else. Section 306I further requires that a corrective services officer or corrective services officer recruit must not have present in a sample:

- evidence of a targeted substance that the person may not lawfully take, or
- evidence of having taken a targeted substance in a way contrary to a direction of a doctor or a recommendation of the manufacturer of the substance.

New section 306J inserts a new power for the chief executive to require a corrective services officer or corrective services officer recruit to submit to a substance test if they have been involved in an incident, the chief executive reasonably suspects the person is contravening or has contravened the requirements under new section 306I, or if required to submit to random testing under new section 306K. The chief executive may also require a corrective services officer recruit to submit to a substance test before commencing or during a training program to become a corrective services officer.

New section 306K inserts a new power for the chief executive to require a corrective services officer or corrective services officer recruit to submit to a random substance test. The requirements about when and where a random test may be conducted and other matters relating to the conduct of a random substance test are to be prescribed in regulation. This power cannot be delegated, in accordance with the consequential amendment to clause 42.

New section 306L inserts the authority for the types of sample a person may be required to give and the methods for a collection of a sample to be prescribed in regulation. Requirements about who a corrective services officer or corrective services officer recruit is to give a sample test to, and when and where this is required to be given, are to be prescribed in regulation. It also provides that the sample must be dealt with in a way prescribed by regulation.

However, this section does insert a requirement that where a corrective services officer or corrective services officer recruit is required to give a test because they have been involved in an incident, that this test sample must be provided as soon as reasonably practicable after the incident happened.

Section 306L also includes an authority for a person administering the test sample to give reasonably necessary directions to the corrective services officer or corrective services officer recruit to facilitate the providing of a sample for a substance test.

New section 306M states that if a corrective services officer or corrective services officer recruit fails to give a substance test sample they are taken to have been tested for a targeted substance and to have evidence of a targeted substance in their sample.

New section 306N applies if an alcohol test or substance test conducted under this part shows a corrective services officer or corrective services officer recruit when tested:

- was over the limit applying to the person when the test was conducted, or
- had evidence of a dangerous drug in the person's sample, or

- had evidence of a targeted substance in the person's sample, and the person was contravening section 306I(2) or (3).

A list of actions that the chief executive may take is provided in subsection (2). The options are:

- suspend the person from duty until he or she is no longer over the alcohol limit or no longer has evidence of a dangerous drug or targeted substance in his or her sample,
- correct the person by way of guidance. This is not a disciplinary sanction,
- require the person to undergo counselling or rehabilitation approved by the chief executive. This option is designed as a welfare measure,
- require the person to submit to a medical examination under chapter 5, part 7 of the *Public Service Act 2008*,
- take disciplinary or other action against the person under chapter 5 or 6 of the *Public Service Act 2008*,
- require the person to submit to further testing from time to time until the chief executive is satisfied the reason for making the requirement no longer exists, i.e., until the person is alcohol or substance free.

Subsection (3) provides that only options (d) and (f) of subsection (2) apply where a corrective services officer or corrective services officer recruit contravenes section 306I(2).

New section 306O states that the chief executive may take disciplinary action under the *Public Service Act 2008* against a corrective services officer or corrective services officer recruit who fails to attend or complete counselling or rehabilitation or who fails to submit to a medical examination requirement under section 306N.

New section 306P inserts an offence for a person who unlawfully interferes with a sample given under this part for an alcohol or substance test. The maximum penalty of 100 penalty units may be imposed.

New section 306Q provides that anything done under this part or any test result is inadmissible in a civil or criminal proceedings. The purpose of this part is welfare and public confidence. Therefore, any tests and results of those tests need to remain confidential. Additionally, the chief executive and anyone else involved in anything done under the part cannot be compelled to produce to a court any document kept or to disclose to a court any information obtained by virtue of this part.

However, these restrictions on the production of material and the giving of evidence do not apply to—

- a proceeding for a charge of an offence arising from an incident,
- an inquest in a Coroners Court into the death of a person in an incident,
- a proceeding on an application under the *Industrial Relations Act 1999*, section 74 for reinstatement because of unfair dismissal,
- an investigation or other proceeding under the *Crime and Corruption Act 2001*, or
- disciplinary action as provided for under the *Public Sector Ethics Act 1994*.

#### **49 Amendment of s 311A (Dealing with amounts received for prisoners in particular cases)**

*Clause 49* amends section 311A to allow the chief executive to restrict payment of amounts into a prisoner's trust account if the donor of the amount is not an approved donor, or if the donor of the amount was released from a corrective services facility within the last year.

Subclause (3) provides that the chief executive may decide to receive an amount for the prisoner even if the donor meets the new restriction requirements inserted into section 311A by subclause (1). Subclause (3) also inserts a new definition of 'approved donor' to mean a person the chief executive allows a prisoner to receive funds from.

Subclauses (2), (4) and (5) renumber subsections of section 311A consequential to the amendments to section 311A.

#### **50 Omission of s 319F (Complaint to official visitor required first)**

*Clause 50* omits section 319F. This amendment commences on proclamation.

#### **51 Amendment of s 324A (Right of eligible persons to receive particular information)**

*Clause 51* replaces the requirement under section 324A(2)(b), for the chief executive to provide information to an eligible person of a prisoner's discharge or release date within 14 days before the prisoner's date of discharge or release, to require this information to be provided to an eligible person as soon as practicable after the chief executive becomes aware of the information.

#### **52 Insertion of new ch 7A, pt 14**

*Clause 52* inserts transitional provisions for amendments made in clause 23, 24, and 37. This ensures the amendments to sections 188, 193A and 234 apply on the commencement of the Bill for decisions not yet made under sections 193 and 193A, and meetings where section 234 previously applied.

#### **53 Amendment of sch 4 (Dictionary)**

*Clause 53* amends dictionary definitions.

Subclause (1) omits the definition of 'conditional release', 'conditional release order', 'dangerous drug', 'probation and parole office', 'released', 'scanning search', 'secure facility' (both mentions) and 'sexual offence'.

The removal of the definitions 'conditional release' and 'conditional release order' from the dictionary are a consequential amendment to clause 14. These sections are redundant due to the conditional release eligibility criteria described within section 97(1).



Subclause (2) inserts definitions of ‘alcohol test’, ‘corrective services officer recruit’, ‘corrective services person’, ‘low alcohol limit’, ‘no alcohol limit’, ‘random alcohol test’, ‘random substance test’, ‘sample’, ‘substance test’, ‘targeted substance’ and ‘training program’ consequential to new part 9A.

Subclause (2) inserts a new definition of ‘misconduct’ to mean for a staff member, conduct that would constitute a disciplinary ground under the *Public Service Act 2008*, section 187.

Subclause (2) updates the definition of ‘dangerous drug’ to mean a drug under the *Drugs Misuse Act 1986*.

The definition of ‘probation and parole office’ is updated in subclause (2) to ‘community corrections office’, to reflect Queensland Corrective Services terminology.

The definition of ‘released’ is updated in subclause (2) to mean released on parole.

The definition of ‘scanning search’ is updated in subclause (2) to mean the search of a person by electronic or other means that does not require the person to remove their clothing but may require another person or an apparatus to touch or come into contact with the person. An apparatus for touching or coming into contact with a person for the purpose of a scanning search is to be prescribed in regulation.

The definition of ‘secure facility’ is updated in subclause (2) to mean, generally, a prison with a perimeter fence, or other security measures, that are designed to prevent the escape of a prisoner. For chapter 6, part 13A see section 344B. A secure facility includes, for example, the Arthur Gorrie Correctional Centre, Borallon Correctional Centre, Brisbane Correctional Centre, Brisbane Women’s Correctional Centre, Capricornia Correctional Centre, Lotus Glen Correctional Centre, Maryborough Correctional Centre, Southern Queensland Correctional Centre, Townsville Correctional Centre, Townsville Women’s’ Correctional Centre, Woodford Correctional Centre, Wolston Correctional Centre, and the Princess Alexandra Hospital Secure Unit.

The definition of ‘sexual offence’ is updated in subclause (2) to mean an offence mentioned in schedule 1 or an offence against a law applying or that applied in another jurisdiction that substantially corresponds to an offence in schedule 1. This amendment ensures that comparative interstate and international offences are captured by provisions throughout the Act that reference a sexual offence.

Subclause (3) amends paragraph (b) of the definition of ‘community corrective services’ to clarify that a probation and parole office is a community corrections office.

Subclause (4) amends the definition of ‘corrective services facility’ to include a temporary corrective services facility declared under section 268(2). This is a consequential amendment to clause 41.

Subclause (5) amends the definition of ‘general search’ to include a search to reveal the contents of a person’s outer garments or general clothes, or a thing in a person’s possession, including touching or moving the thing without touching the person.

Subclause (6) amends the definition of ‘law enforcement agency’ to include a police service outside of Queensland, an entity established under law to investigate corruption or crime, the Australian Security Intelligence Organisation, and the Commonwealth department responsible for the *Australian Border Force Act 2015*, *Customs Act 1901* (other than parts XVB and XVC), and the *Migration Act 1958*.

Subclause (7) amends the definition of ‘offender’ to omit the reference to a conditional release order. This is a consequential amendment to clause 14.

Subclause (8) amends the definition ‘prescribed provision’ to replace the reference to section 234(7) with section 234(3). This is a consequential amendment to clause 37.

Subclauses (9) and (10) amend the definition of ‘unlawfully at large’ to omit the reference to a conditional release order and replace the reference to probation and parole office with community corrections office. These are consequential amendments to clause 14 and clause 53, subclause (1).

## **Part 3 Amendment of Criminal Code**

### **54 Code amended**

*Clause 54* states that this part amends the Criminal Code.

### **55 Amendment of s 340 (Serious assaults)**

*Clause 55* amends section 340(2) to provide that a prisoner who unlawfully assaults a working corrective services officer commits a crime.

Subclause (2) inserts a new maximum penalty of 14 years imprisonment for the serious assault of a corrective services officer under section 340(2) of the Criminal Code, where:

- the offender bites or spits on the corrective services officer or throws at, or in any way applies to, the corrective services officer a bodily fluid or faeces,
- the assault causes bodily harm to the corrective services officer,
- the offender is, or pretends to be, armed with a dangerous or offensive weapon or instrument.

In all other circumstances, a person convicted of serious assault of a corrective services officer under section 340(2) of the Criminal Code is liable to a maximum penalty of 7 years imprisonment.

## **Part 4 Amendment of Racing Integrity Act 2016**

### **56 Act amended**

*Clause 56* states that this part of the Bill amends the *Racing Integrity Act 2016*.

## **57 Insertion of new ch 2, pt 6A, hdg**

*Clause 57* establishes new chapter 2 part 6A (Information sharing) which will include the current section 98A which is relocated and renumbered by clause 59.

## **58 Amendment of s 83 (Other matters about suitability)**

*Clause 58* amends section 83(2) to replace the reference to ‘section 98A’ with ‘section 53A’ as a result of the relocation and renumbering of the current section 98A by clause 59.

## **59 Relocation and renumbering of s 98A (Exchange of information)**

*Clause 59* relocates section 98A (Exchange of information) to the new chapter 2, part 6A established by clause 57. Clause 59 also renumbers section 98A as section 53A. The relocation of the section to the new part 6A in chapter 2 (Queensland Racing Integrity Commission) clarifies that the power to exchange information with a relevant agency applies to all functions of the Queensland Racing Integrity Commission.

## **60 Amendment of s 101 (Grounds for cancellation)**

*Clause 60* replaces the reference to ‘section 98A’ in section 101(3) with ‘section 53A’, as a result of the relocation and renumbering of the current section 98A by clause 59.

## **Part 5 Amendment of Weapons Act 1990**

### **61 Act amended**

*Clause 61* states that this part of the Bill amends the *Weapons Act 1990*.

### **62 Amendment of s 67 (Possessing and acquiring restricted items)**

*Clause 62(1)* amends the current wording of subsection 67(3) to align with new wording used in a subsequent subsection.

*Clause 62(2)* provides that it is a reasonable excuse for a person to possess or acquire a replica of a firearm if they are a member of an association carrying out recreational activities involving replicas of firearms and the item is possessed for the purpose of carrying out these activities. It provides that the activities must be conducted other than in a public place, and in a manner not reasonably able to be seen from a public place.

It also provides that it is a reasonable excuse to possess a replica of a firearm if the person is the holder of a collector’s licence and the person’s reason for possession is for it to be part of the collection of weapons.

It also provides that it is a reasonable excuse for a person to possess or acquire a weapon that is permanently inoperable and would be, if it were not permanently

inoperable, a category A, B or C weapon if the person is the holder of a collector's licence and the reason for possessing or acquiring it is to be part of their collection of weapons.

The clause also clarifies that these sections do not limit what may be a reasonable excuse for subsection (1).

*Clause 62(3)* modifies a reference made in section 67(4), from subsection (5) to subsection (8).

*Clause 62(4)* clarifies that a reference to 'association' has the meaning in the *Associations Incorporation Act 1981*.

*Clause 62(5)* renumbers section 67(3A) to (5) to become section 67(4) to (8).

### **63 Replacement of s 168B (Amnesty declaration)**

*Clause 63* removes the existing section 168B to include a new provision with the heading 'Amnesty for firearms and prescribed things in particular circumstances'

The new provision outlines that a person can not be prosecuted for the offence of possession of a firearm or a prescribed thing in certain circumstances.

It also outlines circumstances when section 73(a) does not apply to an approved licensed dealer and creates a responsibility for the approved licensed dealer to surrender a firearm or prescribed thing to police in certain circumstances. A maximum penalty of 10 penalty units is provided for a failure to comply with this requirement.

The clause also provides a definition of 'approved licensed dealer' as a licensed dealer whose name is published on the QPS website as an approved licensed dealer.

The clause also defines a 'prescribed thing' as a magazine for a weapon, or a category R weapon that is not a firearm, or another thing prescribed by regulation.

### **64 Amendment of s 168C (Dealing with surrendered firearm)**

*Clause 64(1)* changes the heading of section 168C to include the words 'or prescribed thing'.

*Clause 64(2)* amends section 168C(1) to remove reference to an amnesty made under a declaration and instead refers to a firearm or prescribed thing taken to a police station under section 168B(1)(a)(i).

*Clause 64(3)* amends section 168C(2) to add 'prescribed thing' to the references to firearm in the subsection

## **65 Amendment of sch 1 (Subject matter for regulations)**

*Clause 65* amends schedule 1 by providing an additional regulation making subject matter in relation to a firearms amnesty. The clause provides that a regulation can regulate the things and conditions under a section 168B firearms amnesty.

## **66 Amendment of sch 2 (Dictionary)**

*Clause 66* changes a reference in the definition of *restricted item* from ‘section 67(5)’ to ‘section 67(8)’.

## **Part 6 Amendment of Weapons Regulation 2016**

### **67 Regulation amended**

*Clause 67* provides that this part amends the *Weapons Regulation 2016*.

### **68 Insertion of new s 160A**

*Clause 68* inserts a new section 160A (Condition for amnesty for firearms and prescribed things). The clause provides that for the purposes of the firearms amnesty under section 168B, a person must notify the relevant approved licensed dealer or police station of their intention to surrender a firearm or prescribed thing prior to taking it to that location unless they have a reasonable excuse.

The amendment ensures that persons unlawfully in possession of a firearm or prescribed thing can not rely on the firearms amnesty to avoid prosecution unless they have provided prior notification to the dealer or police station, or they have a reasonable excuse for failing to do so.

## **Part 7 Minor and consequential amendments**

### **69 Legislation amended**

*Clause 69* states that schedule 1 amends the legislation it mentions.

### **Schedule 1 Minor and consequential amendments**

Schedule 1 provides for minor and consequential amendments to the *Corrective Services Act 2006*, Criminal Code, *Criminal Law Amendment Act 1945*, *Penalties and Sentences Act 1992*, *Racing Integrity Regulation 2016* and *Weapons Categories Regulation 1997*.