



Police Powers and Responsibilities and Other Legislation Amendment Bill 2018



Queensland

Police Powers and Responsibilities and Other Legislation Amendment Bill 2018

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2018

A Bill

for

An Act to amend the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, the *Corrective Services Act 2006*, the Criminal Code, the *Maritime Safety Queensland Act 2002*, the *Motor Accident Insurance Act 1994*, the *Police Powers and Responsibilities Act 2000*, the *Police Powers and Responsibilities Regulation 2012*, the *Police Service Administration Act 1990*, the *State Penalties Enforcement Act 1999* and the *Transport Planning and Coordination Act 1994* for particular purposes

[s 1]

The Parliament of Queensland enacts— 1

Part 1 Preliminary 2

Clause 1 Short title 3

This Act may be cited as the *Police Powers and Responsibilities and Other Legislation Amendment Act 2018*. 4
5

Clause 2 Commencement 6

Section 22 commences on a day to be fixed by proclamation. 7

Part 2 Amendment of Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004 8
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10
11

Clause 3 Act amended 12

This part amends the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*. 13
14

Clause 4 Amendment of sch 1 (Prescribed offences) 15

Schedule 1, item 6— 16

insert— 17

• section 271.4 (Offence of trafficking in children) 18

• section 271.7 (Offence of domestic trafficking in children) 19
20

-
- section 272.12 (Sexual intercourse with young person outside Australia—defendant in position of trust or authority) 1
2
3
 - section 272.13 (Sexual activity (other than sexual intercourse) with young person outside Australia—defendant in position of trust or authority) 4
5
6
 - section 273.7 (Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people) 7
8
 - section 471.20 (Possessing, controlling, producing, supplying or obtaining child abuse material for use through a postal or similar service) 9
10
11
 - section 471.22 (Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people) 12
13
 - section 471.26 (Using a postal or similar service to send indecent material to person under 16) 14
15
 - section 474.24A (Aggravated offence—offence involving conduct on 3 or more occasions and 2 or more people) 16
17
18
 - section 474.25B (Aggravated offence—child with mental impairment or under care, supervision or authority of defendant) 19
20
21

Part 3 **Amendment of Corrective Services Act 2006** 22
23

Clause 5 **Act amended** 24
This part amends the *Corrective Services Act 2006*. 25

Clause 6 **Amendment of s 193 (Decision of parole board)** 26
(1) Section 193(5)(b)— 27
omit, insert— 28

[s 7]

	(b) if the application is for a parole order other than an exceptional circumstances parole order—decide a period of time within which a further application for a parole order (other than an exceptional circumstances parole order) by the prisoner must not be made without the board’s consent.	1 2 3 4 5 6 7
(2)	Section 193— <i>insert—</i>	8 9
	(5A) The period of time decided under subsection (5)(b) must not be more than—	10 11
	(a) for a prisoner serving a life sentence—12 months; or	12 13
	(b) otherwise—6 months.	14
Clause 7	Replacement of s 208B (Prescribed board member may suspend parole order and issue warrant)	15 16
	Section 208B— <i>omit, insert—</i>	17 18
	208B Parole board or prescribed board member may suspend parole order and issue warrant	19 20
	(1) If a request is made under section 208A, the parole board or a prescribed board member must, as a matter of urgency—	21 22 23
	(a) consider the request; and	24
	(b) decide whether or not to suspend the parole order.	25 26
	(2) The parole board or prescribed board member may decide to suspend the parole order only if the parole board or member reasonably believes the prisoner—	27 28 29 30
	(a) has failed to comply with the parole order; or	31 32

	(b) poses a serious and immediate risk of harm to another person; or	1 2
	(c) poses an unacceptable risk of committing an offence; or	3 4
	(d) is preparing to leave the State, other than under a written order granting the prisoner leave to travel interstate or overseas.	5 6 7
(3)	If the parole board considers the request, the decision whether or not to suspend the parole order is taken to have been made under section 205(2).	8 9 10 11
(4)	If the parole board or prescribed board member decides not to suspend the parole order, the parole board or member must give the chief executive written notice of the decision.	12 13 14 15
(5)	If the prescribed board member decides to suspend the parole order, the member may—	16 17
	(a) by written order, suspend the parole order; and	18 19
	(b) issue a warrant, signed by the member or an officer of the secretariat prescribed by regulation, for the prisoner’s arrest.	20 21 22
(6)	The order has effect from when it is made.	23
(7)	The warrant may be directed to all police officers.	24
(8)	When arrested, the prisoner must be taken to a prison to be kept there until the suspension ends.	25 26
Clause 8	Amendment of s 208C (Parole board must consider suspension)	27 28
	Section 208C, heading, after ‘suspension’—	29
	<i>insert—</i>	30
	by prescribed board member	31

[s 9]

Clause 9	Amendment of s 234 (Meetings about particular matters relating to parole orders)	1 2
	(1) Section 234(1)—	3
	<i>omit, insert—</i>	4
	(1) Subsection (2) applies if, at a meeting of the parole board, the board is to consider a prescribed prisoner’s application for a parole order.	5 6 7
	(2) Section 234(3), after ‘suspension’—	8
	<i>insert—</i>	9
	or cancellation	10

Part 4 Amendment of Criminal Code 11

Clause 10	Act amended	12
	This part amends the Criminal Code.	13

Clause 11	Amendment of s 205A (Contravening order about information necessary to access information stored electronically)	14 15 16
	Section 205A(a), ‘(2) or 154A(2)’—	17
	<i>omit, insert—</i>	18
	(2), 154A(2) or 178A(1)	19

Part 5 Amendment of Maritime Safety Queensland Act 2002 20 21

Clause 12	Act amended	22
	This part amends the <i>Maritime Safety Queensland Act 2002</i> .	23

Clause 13	Amendment of s 11A (Delegation of functions of general manager)	1 2
	(1) Section 11A—	3
	<i>insert—</i>	4
	(2A) Proof of a delegation by the general manager under subsection (1) is not required in a proceeding under the <i>Transport Operations (Marine Pollution) Act 1995</i> or the <i>Transport Operations (Marine Safety) Act 1994</i> unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the delegation at least 10 business days before the hearing date.	5 6 7 8 9 10 11 12 13
	(2B) The notice must be in the form approved by the general manager.	14 15
	(2) Section 11A(2A) to (4)—	16
	<i>renumber</i> as section 11A(3) to (6).	17

Part 6	Amendment of Motor Accident Insurance Act 1994	18 19
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Clause 14	Act amended	20
	This part amends the <i>Motor Accident Insurance Act 1994</i> .	21

Clause 15	Amendment of s 87W (Proceedings)	22
	Section 87W—	23
	<i>insert—</i>	24
	(4) Proof of an authorisation by the commissioner or the Attorney-General under subsection (1)(c) is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the	25 26 27 28 29

[s 16]

	authorisation at least 10 business days before the hearing date.	1 2
	(5) The notice must be in the form approved by the commission or transport administration.	3 4
Clause 16	Amendment of s 87X (Evidentiary certificates given by the commission and transport administration)	5 6
	Section 87X—	7
	<i>insert—</i>	8
	(5) Subsections (6) and (7) apply if there is an authorisation by the commission or transport administration under subsection (4)(b) of a power to give a certificate under subsection (1) or (2).	9 10 11 12
	(6) Proof of the authorisation is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the authorisation at least 10 business days before the hearing date.	13 14 15 16 17
	(7) The notice must be in the form approved by the commission or transport administration.	18 19
Clause 17	Amendment of s 90 (Transport administration to provide certain information)	20 21
	Section 90—	22
	<i>insert—</i>	23
	(3) Subsections (4) and (5) apply if there is a delegation by transport administration of a power to give a certificate under subsection (2).	24 25 26
	(4) Proof of the delegation is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the delegation at least 10 business days before the hearing date.	27 28 29 30 31

	(5) The notice must be in the form approved by transport administration.	1 2
Part 7	Amendment of Police Powers and Responsibilities Act 2000	3 4
Clause 18	Act amended	5
	This part amends the <i>Police Powers and Responsibilities Act 2000</i> .	6 7
Clause 19	Amendment of s 21B (Power to inspect storage devices for the Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004)	8 9 10
	Section 21B(6), definition <i>prescribed internet offence</i> , paragraph (a)—	11 12
	<i>omit, insert—</i>	13
	(a) an offence against any of the following provisions of the Criminal Code—	14 15
	• section 218A	16
	• section 228DA	17
	• section 228DB; or	18
Clause 20	Amendment of ch 4, pt 2, div 1B, sdiv 2, hdg (Removal and confiscation of number plate powers)	19 20
	Chapter 4, part 2, division 1B, subdivision 2, heading, ‘Removal and confiscation’—	21 22
	<i>omit, insert—</i>	23
	Confiscation	24

[s 21]

Clause 21	Amendment of s 74H (Power to remove and confiscate number plates)	1 2
	(1) Section 74H(2)—	3
	<i>omit, insert—</i>	4
	(2) The police officer may attach a notice (a number plate confiscation notice) to the motor vehicle stating all of the following—	5 6 7
	(a) that the vehicle must not be operated;	8
	(b) the period for which the vehicle is prohibited from being operated;	9 10
	(c) that the notice must not be removed from the vehicle;	11 12
	(d) the date the notice is attached to the motor vehicle.	13 14
	(2A) If the police officer attaches a number plate confiscation notice to the motor vehicle and number plates are attached to the motor vehicle, the police officer must also remove and confiscate the number plates.	15 16 17 18 19
	(2) Section 74H—	20
	<i>insert—</i>	21
	(4) To remove any doubt, it is declared that a number plate confiscation notice may be attached to a motor vehicle whether or not number plates are attached to the vehicle.	22 23 24 25
Clause 22	Insertion of new s 105CA	26
	Chapter 4, part 5A, division 2, after section 105C—	27
	<i>insert—</i>	28
	105CA Offence to modify, sell or dispose of motor vehicle during number plate confiscation period	29 30 31
	(1) This section applies if a number plate confiscation	32

	notice was attached to a motor vehicle under section 74H.	1 2
	(2) The owner of the motor vehicle must not, without reasonable excuse, modify or sell or otherwise dispose of the motor vehicle during the number plate confiscation period.	3 4 5 6
	Maximum penalty for subsection (2)—40 penalty units.	7 8
Clause 23	Insertion of new ch 7, pt 3, div 1AA	9
	Chapter 7, part 3, before division 1—	10
	<i>insert—</i>	11
	Division 1AA Preliminary	12
	163A Definitions for part	13
	In this part—	14
	<i>crime scene</i> see section 163B.	15
	<i>crime scene threshold offence</i> means—	16
	(a) an indictable offence for which the maximum penalty is at least 4 years imprisonment; or	17 18 19
	(b) an offence involving deprivation of liberty.	20
	<i>responsible officer</i> see section 165(1).	21
	163B What is a <i>crime scene</i>	22
	A place is a <i>crime scene</i> if—	23
	(a) either of the following apply—	24
	(i) a crime scene threshold offence happened at the place;	25 26

[s 24]

	(ii) there may be evidence at the place, of a significant probative value, of the commission of a crime scene threshold offence that happened at another place; and	1 2 3 4 5
	(b) it is necessary to protect the place for the time reasonably necessary to search for and gather evidence of the commission of the crime scene threshold offence.	6 7 8 9
Clause 24	Amendment of s 164 (Gaining access to crime scenes)	10
	Section 164(2)(b), ‘primary or secondary’—	11
	<i>omit.</i>	12
Clause 25	Insertion of new s 178A	13
	Chapter 7, part 3, division 3—	14
	<i>insert—</i>	15
	178A Order for access information for a storage device at or seized from a crime scene	16 17
	(1) On the application of a police officer, a Supreme Court judge or a magistrate may make an access information order for a storage device—	18 19 20
	(a) situated at a crime scene; or	21
	(b) seized from a crime scene under section 176(1)(j).	22 23
	(2) The judge or magistrate may make the access information order only if satisfied there are reasonable grounds for suspecting that information stored on the storage device may be evidence of the commission of the offence for which the crime scene was, or is to be, established.	24 25 26 27 28 29 30
	(3) The access information order must state—	31

-
- (a) the time at or by which the specified person must give the police officer the information or assistance; and
- (b) the place where the specified person must provide the information and assistance; and
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order may be dealt with under the Criminal Code, section 205A.
- (4) Without limiting when the application for the access information order may be made, the application may be made at the same time the police officer applies for a crime scene warrant for the crime scene and the judge or magistrate may include the order in the crime scene warrant.
- (5) In this section—
- access information**, for a storage device, means information that is necessary for a person to access and read information stored on the storage device.
- access information order**, for a storage device at or seized from a crime scene, means an order requiring a specified person to—
- (a) give a police officer—
- (i) access to the storage device; or
- (ii) access information for the storage device; or
- (iii) any other information or assistance necessary for the police officer to be able to use the storage device to gain access to information stored on the device that is accessible only by using access information; or

[s 25]

- (b) allow a police officer, given access to the storage device, to do any of the following in relation to information stored on or accessible only by using the storage device—
- (i) use access information or other information to gain access to the stored information;
 - (ii) examine the stored information to find out whether it may be evidence of the commission of the offence for which the crime scene was, or is to be, established;
 - (iii) make a copy of the stored information that may be evidence of the commission of a crime scene threshold offence, including by using another storage device;
 - (iv) convert the stored information into a form that enables it to be understood by a police officer.
- specified person***, for a storage device, means a person who—
- (a) is—
 - (i) reasonably suspected of having committed an offence for which a crime scene warrant was issued; or
 - (ii) the owner of the storage device; or
 - (iii) in possession of the storage device; or
 - (iv) an employee of the owner or person in possession of the storage device; or
 - (v) a person who uses or has used the storage device; or

-
- (vi) a person who is or was a system administrator for the computer network of which the storage device forms or formed a part; and
- (b) has a working knowledge of—
- (i) how to access and operate the storage device or a computer network of which the storage device forms or formed a part; or
- (ii) measures applied to protect information stored on the storage device.
- storage device* means a device on which information may be stored electronically, including a computer.
- stored*, on a storage device, includes accessible through the storage device.

178B Compliance with access information order

- (1) A person is not excused from complying with an access information order on the ground that complying with it may tend to incriminate the person or make the person liable to a penalty.
- (2) In this section—
- access information order* see section 178A(5).

Clause 26 Amendment of s 179 (Alternative accommodation to be provided in some cases)

Section 179(2)—

omit, insert—

- (1A) A police officer must inform the occupier of the occupier's right to suitable alternative accommodation for the time the occupier can not

[s 27]

	live in the dwelling.	1
	(2) The commissioner must arrange suitable alternative accommodation for the occupier for the time the occupier can not live in the dwelling, if requested to do so by the occupier.	2 3 4 5
Clause 27	Insertion of new ch 7, pt 3A	6
	Chapter 7—	7
	<i>insert—</i>	8
	Part 3A	9
	Searching places for high-risk missing persons	10 11
	Division 1	12
	Preliminary	
	179A Definitions for part	13
	In this part—	14
	<i>commissioned officer</i> means a police officer of at least the rank of inspector.	15 16
	<i>missing person</i> see section 179B.	17
	<i>missing person powers</i> means the powers provided for in sections 179P and 179Q.	18 19
	<i>missing person scene</i> means that part of a place in which missing person powers may be exercised.	20 21
	<i>missing person warrant</i> see section 179J(1).	22
	<i>residence</i> , for a person, includes a place at which the person regularly sleeps.	23 24
	<i>responsible officer</i> see section 179D.	25

179B Who is a <i>missing person</i>	1
A person is a <i>missing person</i> if—	2
(a) another person fears for the safety of the person, or is concerned for the welfare of the person, because he or she is unable to contact or locate the person; and	3 4 5 6
(b) the other person reports his or her fear or concern to a police officer; and	7 8
(c) after a police officer makes reasonable inquiries to contact or locate the person, the person's whereabouts remain unknown to the police officer.	9 10 11 12
179C When a missing person is high-risk	13
(1) This section applies to a police officer, Supreme Court judge or magistrate in deciding under division 2 or 3 whether a missing person is high-risk.	14 15 16 17
(2) The police officer, Supreme Court judge or magistrate may be satisfied a missing person is high-risk if—	18 19 20
(a) the person is under 13 years; or	21
(b) the officer, judge or magistrate reasonably suspects the person may suffer serious harm if not found as quickly as possible.	22 23 24
(3) In making a decision about a missing person under subsection (2)(b), the police officer, Supreme Court judge or magistrate may have regard to any of the following matters—	25 26 27 28
(a) the person's age;	29
(b) any disability of the person attributable to a cognitive, intellectual, neurological, physical or psychiatric impairment;	30 31 32
(c) evidence the person may commit suicide;	33

[s 27]

- | | |
|---|----------------|
| (d) the person's ability to interact safely with other persons or in an unfamiliar environment; | 1
2
3 |
| (e) the person's need for medication; | 4 |
| (f) an addiction the person may have; | 5 |
| (g) the person's recent behaviour that is out of character for the person; | 6
7 |
| (h) whether the person is suspected of being the victim of a crime; | 8
9 |
| (i) any history of domestic violence or other relationship problems affecting the person; | 10
11 |
| (j) any ongoing bullying or harassment of the person; | 12
13 |
| (k) a previous disappearance or exposure to serious harm that affected the person; | 14
15 |
| (l) whether the person is experiencing any financial problems; | 16
17 |
| (m) a reason why the person may wish to go missing; | 18
19 |
| (n) if the person is suspected of being lost within a particular area, the climate or other environmental factors relevant to the area; | 20
21
22 |
| (o) any suspicious circumstances relating to the person's disappearance. | 23
24 |
| <i>Example of a suspicious circumstance—</i> | 25 |
| The missing person has suddenly stopped his or her regular activities, including banking or social activities. | 26
27
28 |
| (4) In this section— | 29 |
| serious harm means harm, including the cumulative effect of any harm, that— | 30
31 |
| (a) endangers, or is likely to endanger, a person's life; or | 32
33 |

-
- (b) is, or is likely to be, significant and longstanding. 1
2

Division 2 Establishment of missing person scenes 3
4

179DEstablishing missing person scene 5

- (1) A police officer (the *responsible officer*) may establish a missing person scene at a place if authorised to do so— 6
7
8
(a) under a missing person warrant; or 9
(b) under section 179E. 10
- (2) If another police officer assumes control of the missing person scene, that police officer becomes the responsible officer for the scene instead of the other officer. 11
12
13
14
- (3) The police officer may establish the missing person scene in any way that gives a person wanting to enter the place notice that the place is a missing person scene. 15
16
17
18
- Examples—* 19
- 1 A police officer may stand at a door to stop people entering a building and tell them they can not enter the building. 20
21
22
- 2 A police officer may put around a place barricades or tapes indicating the place is a missing person scene. 23
24
25
- 3 A police officer may display a written notice stating the place is a missing person scene and unauthorised entry is prohibited. 26
27
28

[s 27]

179E	Authorisation if, as a matter of urgency, it is necessary to establish missing person scene before obtaining missing person warrant	1
		2
		3
(1)	This section applies if a police officer is satisfied—	4
		5
(a)	a missing person is high-risk; and	6
(b)	as a matter of urgency, it is necessary to establish a missing person scene at a place before obtaining a missing person warrant.	7
		8
		9
(2)	The police officer may establish the missing person scene if authorised to do so by a commissioned officer.	10
		11
		12
(3)	The commissioned officer may authorise establishing the missing person scene if—	13
		14
(a)	the commissioned officer is satisfied the missing person is high-risk; and	15
		16
(b)	the commissioned officer—	17
(i)	for a place that is the missing person’s residence, place of employment or vehicle—reasonably suspects the person may be at the place or an inspection of the place may provide information about the person’s disappearance; or	18
		19
		20
		21
		22
		23
		24
(ii)	for any other place—reasonably believes the person may be at the place or an inspection of the place may provide information about the person’s disappearance; and	25
		26
		27
		28
		29
(c)	the commissioned officer is satisfied it is reasonably necessary to exercise missing person powers at the place to search for the person or to gather information about the person’s disappearance; and	30
		31
		32
		33
		34

-
- (d) the commissioned officer is satisfied, as a matter of urgency, it is necessary to establish a missing person scene at the place before obtaining a missing person warrant.

179F Responsibility after establishing missing person scene before obtaining missing person warrant

- (1) This section applies if a police officer establishes a missing person scene at a place before obtaining a missing person warrant.
- (2) As soon as reasonably practicable after establishing the missing person scene, a police officer must apply under section 179J to a Supreme Court judge or magistrate for a missing person warrant.
- (3) Subsection (2) does not apply if the place is a public place, unless the place is a public place only while it is ordinarily open to the public and the occupier of the place requires a police officer at the place to leave the place.

179G Deciding limits of missing person scene

- When establishing a missing person scene, the responsible officer for the scene must—
- (a) identify what is the missing person scene; and
- (b) decide the boundaries necessary to protect the missing person scene; and
- (c) mark the limits of the missing person scene in a way that sufficiently identifies it to the public as a missing person scene.

[s 27]

179H Restricting access to missing person scene	1
(1) Immediately after establishing a missing person scene, the responsible officer for the scene must take the steps the officer considers reasonably necessary to protect anything at the scene from being damaged, interfered with or destroyed, including, for example, steps necessary to—	2 3 4 5 6 7
(a) ensure people, including police officers, whose presence at the scene is not essential do not enter the scene; and	8 9 10
(b) prevent unnecessary movement inside the boundaries of the scene; and	11 12
(c) establish a safe walking area in the scene for reducing the risk of damage to anything that may be at the scene.	13 14 15
(2) A person, other than the responsible officer, must not enter the missing person scene unless—	16 17
(a) the person has a special reason, associated with the investigation, for entering the scene; or	18 19 20
<i>Examples—</i>	21
• a police officer removing someone from the missing person scene who should not be there	22 23
• a police officer investigating the disappearance of the missing person the subject of the investigation	24 25 26
• a person accompanying a police officer to assist in the investigation or who has special knowledge of the place that is relevant to the investigation	27 28 29 30
(b) the person is a police officer who is asked to enter the scene by the responsible officer or an investigating police officer; or	31 32 33
(c) the person is an authorised assistant; or	34
(d) the presence of the person is necessary to preserve life or property at the scene; or	35 36

-
- (e) the person is authorised to enter by the responsible officer. 1
2
- (3) For subsection (2)(e), the responsible officer may authorise the entry subject to stated requirements. 3
4
- (4) The responsible officer must ensure a record is made of— 5
6
- (a) the name of each person who is present when the missing person scene is established or enters it after it is established; and 7
8
9
10
- (b) when each person entered the missing person scene after it was established, and the purpose of the entry. 11
12
13
- 179I When place stops being missing person scene** 14
- (1) If a missing person scene is established at a place, the place stops being a missing person scene at the end of 48 hours after the scene is established. 15
16
17
- (2) However, if a missing person warrant issued for the place is extended under section 179M, the place stops being a missing person scene at the end of the extension. 18
19
20
21
- (3) Also, the place stops being a missing person scene before the end of the 48 hours, or any extension, if and when any of the following events happen— 22
23
24
- (a) a judge or magistrate refuses to issue a missing person warrant for the place; 25
26
- (b) a missing person warrant for the place stops having effect under section 179M; 27
28
- (c) the responsible officer for the scene becomes aware that the missing person— 29
30
- (i) has been found; or 31
- (ii) is not a person who is likely to be high-risk; 32
33

[s 27]

- (d) the responsible officer for the scene decides 1
there is no longer a need to exercise missing 2
person powers at the place. 3

Division 3 Missing person warrants 4

179J Applying for missing person warrant 5

- (1) A police officer may apply to a Supreme Court 6
judge or a magistrate for a warrant (a *missing* 7
person warrant) to— 8
 - (a) establish a missing person scene; or 9
 - (b) confirm a missing person scene established 10
under section 179E. 11
- (2) However, the police officer may only apply for a 12
warrant to establish a missing person scene if 13
authorised to do so by a commissioned officer. 14
- (3) The application must— 15
 - (a) be sworn and state the grounds on which it 16
is sought; and 17
 - (b) include the information required under the 18
responsibilities code. 19
- (4) A police officer must, if reasonably practicable, 20
give notice of the making of the application to the 21
occupier of the place. 22
- (5) Subsection (4) does not apply if the police officer 23
reasonably suspects giving the notice would 24
frustrate or otherwise hinder the investigation to 25
which the application relates. 26
- (6) If present when the application is made, the 27
occupier may make submissions to the judge or 28
magistrate (the *issuer*), but not submissions that 29
will unduly delay the consideration of the 30
application. 31

-
- (7) The issuer may refuse to consider the application until the police officer gives the issuer all the information the issuer requires about the application in the way the issuer requires.

Example—

The issuer may require additional information supporting the application to be given by statutory declaration.

179K Considering application and issuing missing person warrant

- (1) This section applies if a Supreme Court judge or magistrate is considering an application for a missing person warrant in relation to a place.
- (2) In deciding the application, the judge or magistrate must have regard to the following—
- (a) the nature and seriousness of the disappearance of the missing person;
 - (b) the likely extent of interference to be caused to the occupier of the place;
 - (c) the time for which it is reasonable to maintain a missing person scene;
 - (d) any submissions made by the occupier of the place.
- (3) The judge or magistrate (the *issuer*) may issue the missing person warrant if—
- (a) the issuer is satisfied the missing person is high-risk; and
 - (b) the issuer—
 - (i) for a place that is the person’s residence, place of employment, or vehicle—reasonably suspects the person may be at the place or an inspection of the place may provide

[s 27]

- information about the person's
disappearance; or
- (ii) for any other place—reasonably
believes the person may be at the place
or an inspection of the place may
provide information about the person's
disappearance; and
- (c) the issuer is satisfied it is reasonably
necessary to exercise missing person powers
at the place to search for the person or to
gather information about the person's
disappearance.
- (4) If, before the application is considered, the place
stops being a missing person scene, the judge or
magistrate may issue a missing person warrant
that has effect only for the time the place was a
missing person scene.

179L What missing person warrant must state

- (1) A missing person warrant must state—
- (a) that a stated police officer may establish a
missing person scene at the place and
exercise missing person powers at the scene;
and
- (b) the day and time, of not more than 48 hours
after the missing person scene is
established, that the warrant ends.
- (2) If a Supreme Court judge issues the missing
person warrant, the warrant must state whether or
not a police officer may, under the warrant, do
something that may cause structural damage to a
building.

179M	Duration, extension and review of missing person warrant	1
		2
(1)	A missing person warrant stops having effect at the time fixed under the warrant or a later time fixed under subsection (2).	3 4 5
(2)	A Supreme Court judge or magistrate may, on the application of a police officer made before a missing person warrant stops having effect, extend the warrant for a stated reasonable time of not more than 48 hours.	6 7 8 9 10
(3)	The application must—	11
(a)	be sworn and state the grounds on which it is sought; and	12 13
(b)	include the information required under the responsibilities code.	14 15
179N	Review of missing person warrant	16
(1)	This section applies if a missing person warrant is issued in relation to a place.	17 18
(2)	The occupier of the place may apply to the Supreme Court judge or magistrate that issued the missing person warrant for an order revoking the warrant if the application for the warrant was made in the absence of the occupier and the occupier—	19 20 21 22 23 24
(a)	did not know about the application; or	25
(b)	had a genuine reason for not being present during the hearing of the application.	26 27
(3)	The judge or magistrate may revoke or refuse to revoke the warrant.	28 29
(4)	The making of an application under subsection (2), or an application under the <i>Judicial Review Act 1991</i> for review of the decision to issue the missing person warrant, does	30 31 32 33

[s 27]

not stay the effect of the warrant.	1
179O Copy of missing person warrant to be given to occupier	2 3
(1) If a police officer exercises powers under a missing person warrant at a place that is occupied, the police officer must give the occupier a copy of both of the following as soon as it is reasonably practicable to do so—	4 5 6 7 8
(a) the missing person warrant;	9
(b) a statement, in the approved form, summarising the occupier's rights and obligations under the missing person warrant.	10 11 12 13
(2) If the occupier is not present, the police officer must leave the copy of the missing person warrant and the statement in a conspicuous place.	14 15 16
Division 4 Powers at missing person scenes	17 18
179P Powers at missing person scene	19
(1) The responsible officer for a missing person scene, or a police officer acting under the direction of the responsible officer, may do any of the following in relation to the scene—	20 21 22 23
(a) enter the scene;	24
(b) if reasonably necessary, enter another place to gain access to the scene;	25 26
(c) perform any necessary investigation, including, for example, a search and inspection of the scene and anything in it for	27 28 29

the missing person or to obtain information about the person's disappearance;	1 2
(d) open anything at the scene that is locked;	3
(e) take electricity for use at the scene;	4
(f) remove or cause to be removed an obstruction from the scene;	5 6
(g) photograph the scene and anything in it;	7
(h) seize all or part of a thing that may provide information about the missing person's disappearance.	8 9 10
(2) However, if it is necessary to do anything at the missing person scene that may cause structural damage to a building, the thing must not be done unless a Supreme Court judge issues a missing person warrant before the thing is done and the warrant authorises the doing of the thing.	11 12 13 14 15 16
(3) An authorised assistant for the missing person scene may also do a thing mentioned in subsection (1).	17 18 19
(4) However, the authorised assistant may do either of the following things only if asked to do so by the responsible officer—	20 21 22
(a) enter the missing person scene;	23
(b) if reasonably necessary, enter another place to gain access to the missing person scene.	24 25
179QPowers of direction etc. at missing person scene	26 27
The responsible officer for a missing person scene, or a police officer acting under the direction of the responsible officer, may do any of the following—	28 29 30 31
(a) direct a person to leave the scene or remove a vehicle or animal from the scene;	32 33

[s 27]

(b) remove or cause to be removed from the scene—	1 2
(i) a person who fails to comply with a direction to leave the scene; or	3 4
(ii) a vehicle or animal a person fails to remove from the scene;	5 6
(c) direct a person not to enter the scene;	7
(d) prevent a person from entering the scene;	8
(e) prevent a person from removing a thing from or otherwise interfering with the scene or anything in it and, for that purpose, detain and search the person;	9 10 11 12
(f) direct the occupier of the place that is the missing person scene, or a person apparently in charge of the place, to maintain a continuous supply of electricity at the place.	13 14 15 16 17
179R Exercising missing person powers to be electronically recorded	18 19
(1) This section applies if a police officer exercises a missing person power at a place.	20 21
(2) If practicable, the act of exercising the missing person power must be electronically recorded.	22 23
Division 5 General	24
179S Alternative accommodation to be provided in some cases	25 26
(1) This section applies to the occupier of a dwelling if the occupier can not continue to live in the dwelling—	27 28 29

	(a) while a missing person scene is established because of a direction given at the scene; or	1 2
	(b) because of damage caused to the dwelling in the exercise of missing person powers.	3 4
(2)	A police officer must inform the occupier of the occupier's right to suitable alternative accommodation for the time the occupier can not live in the dwelling.	5 6 7 8
(3)	The commissioner must arrange suitable alternative accommodation for the occupier for the time the occupier can not live in the dwelling, if requested to do so by the occupier.	9 10 11 12
(4)	The accommodation must, if reasonably practicable, be in the same locality as, and of at least a similar standard to, the dwelling.	13 14 15
(5)	This section does not apply to an occupier who is detained in lawful custody.	16 17
Clause 28	Amendment of s 382 (Notice to appear may be issued for offence)	18 19
(1)	Section 382(4), ' <i>Justices Act 1886</i> , section 56(2)(a), (b) or (c)'—	20 21
	<i>omit, insert—</i>	22
	<i>Justices Act 1886</i> , section 56(1)(a) or (2)(a), (b) or (c)	23 24
(2)	Section 382(4), note—	25
	<i>omit, insert—</i>	26
	<i>Note—</i>	27
	The <i>Justices Act 1886</i> , section 56(1)(a) or (2)(a), (b) or (c) authorises service on a person at the person's place of business or residence last known to the complainant, or at an address stated on the person's driver licence or a current certificate of registration for the person's motor vehicle.	28 29 30 31 32

[s 29]

Clause 29	Amendment of s 389 (Court may order immediate arrest of person who fails to appear)	1 2
	Section 389(5), ‘delaying the issue or execution’—	3
	<i>omit, insert—</i>	4
	postponing the enforcement	5
Clause 30	Amendment of s 442 (Application of ch 16)	6
	Section 442, after paragraph (cb)—	7
	<i>insert—</i>	8
	(cc) is detained under section 50 in relation to a	9
	breach of the peace and is to be transported	10
	to a place by a police officer; or	11
Clause 31	Amendment of s 597 (Powers for reportable deaths)	12
	Section 597(4), after ‘officer may’—	13
	<i>insert—</i>	14
	search for and	15
Clause 32	Amendment of s 602S (Power to detain and photograph)	16
	Section 602S(2)—	17
	<i>omit, insert—</i>	18
	(2) If the police officer is unable to photograph the	19
	respondent without transporting the respondent to	20
	a police vehicle, watch-house or police station,	21
	the police officer may detain and transport the	22
	respondent to the police vehicle, watch-house or	23
	police station.	24
	(3) Under this section, a police officer may only—	25
	(a) detain a person for the period reasonably	26
	necessary to photograph the person; and	27

	(b) if subsection (2) applies, detain a person for the period reasonably necessary to transport the person; and	1 2 3
	(c) photograph a person’s face, neck and hair.	4
Clause 33	Insertion of new s 655A	5
	Chapter 21—	6
	<i>insert</i> —	7
	655A Offence to assault or obstruct watch-house officer	8 9
	(1) A person must not—	10
	(a) assault a watch-house officer in the performance of the officer’s duties; or	11 12
	(b) obstruct a watch-house officer in the performance of the officer’s duties.	13 14
	Maximum penalty—40 penalty units or 6 months imprisonment.	15 16
	(2) In this section—	17
	<i>assault</i> has the meaning given by the Criminal Code, section 245.	18 19
	<i>obstruct</i> includes hinder, resist and attempt to obstruct.	20 21
Clause 34	Amendment of s 705 (Destruction of drug matter soon after it is seized etc.)	22 23
	Section 705(1)(a), example, ‘ <i>Cannabis sativa</i> ’—	24
	<i>omit, insert</i> —	25
	cannabis	26
Clause 35	Amendment of ch 22, pt 1, div 1, hdg (Explanation)	27
	Chapter 22, part 1, division 1, heading, ‘Explanation’—	28

[s 36]

omit, insert—

1

Purpose

2

Clause 36 Replacement of s 746 (Explanation of ch 22)

3

Section 746—

4

omit, insert—

5

746 Purpose of chapter

6

(1) The purpose of this chapter is to enhance
community safety by reducing the need for police
officers to use a police service motor vehicle to
pursue another motor vehicle if the driver fails to
stop when directed.

7

8

9

10

11

(2) The purpose is mainly achieved by—

12

(a) providing for an evasion offence; and

13

(b) providing a power to help police officers
investigate evasion offences; and

14

15

(c) enabling a court to order the impoundment
or forfeiture of a motor vehicle after the
court finds the driver of the motor vehicle
guilty of an evasion offence.

16

17

18

19

Clause 37 Amendment of s 747 (Definitions for ch 22)

20

(1) Section 747, definition *declaration*—

21

omit.

22

(2) Section 747, definition *nominated person*, paragraph (b)—

23

omit, insert—

24

(b) a person nominated in a statutory
declaration made under section 755 as any
of the following—

25

26

27

	(i) the person believed to be driving the motor vehicle when the evasion offence happened;	1 2 3
	(ii) the person to whom the motor vehicle was sold;	4 5
	(iii) the person from whom the motor vehicle was purchased.	6 7
(3)	Section 747, definition <i>owner</i> , paragraph (a)— <i>omit, insert—</i>	8 9
	(a) generally, means a person in whose name the motor vehicle is registered under a transport Act or corresponding law; or	10 11 12
Clause 38	Amendment of s 754 (Offence for driver of motor vehicle to fail to stop motor vehicle)	13 14
	Section 754, heading— <i>omit, insert—</i>	15 16
	754 Evasion offence	17
Clause 39	Amendment of s 755 (When evasion offence notice may be given to owner of motor vehicle involved in offence)	18 19
	Section 755(2) to (6)— <i>omit, insert—</i>	20 21
	(2) The police officer may, by written notice (an <i>evasion offence notice</i>) given to the owner, require the owner to—	22 23 24
	(a) make a statutory declaration complying with section 755A; and	25 26
	(b) give the statutory declaration to either of the following officers within 14 business days after being given the notice—	27 28 29
	(i) the police officer named in the notice;	30

[s 39]

- | | | |
|------|--|----------------------------|
| (ii) | the officer in charge of a stated police station or police establishment. | 1
2 |
| (3) | The evasion offence notice must identify the motor vehicle involved in the evasion offence and state all of the following— | 3
4
5 |
| (a) | when and where the offence was committed; | 6 |
| (b) | the name and address of the person in whose name the motor vehicle was registered, when the offence was committed, under a transport Act or a corresponding law; | 7
8
9
10 |
| (c) | that the owner must comply with the requirement within the 14 business days unless the owner has a reasonable excuse; | 11
12
13 |
| (d) | the consequences if the owner does not comply with the requirement within the 14 business days, including an explanation of the application of section 756 to the owner in any proceeding for the offence; | 14
15
16
17
18 |
| (e) | the nature of the information the owner must include in the statutory declaration; | 19
20 |
| (f) | that, if the owner is a corporation, the statutory declaration must be signed by an executive officer of the corporation. | 21
22
23 |
| (4) | If the owner is an individual, the police officer must— | 24
25 |
| (a) | personally give the evasion offence notice to the owner; and | 26
27 |
| (b) | when giving the evasion offence notice to the owner, explain to the owner— | 28
29 |
| (i) | what the notice requires the owner to do; and | 30
31 |
| (ii) | the consequences of not complying with the notice, including the | 32
33 |

	application of section 756 to the owner	1
	in any proceeding for the offence.	2
(5)	The owner must comply with the requirement to	3
	the extent it requires the owner to give a statutory	4
	declaration under subsection (2)(b) unless the	5
	owner has a reasonable excuse.	6
	Maximum penalty—100 penalty units.	7
(6)	A conviction of the owner for the offence against	8
	subsection (5) does not prevent the following—	9
(a)	a proceeding for the evasion offence being	10
	started against the owner, including being	11
	started because of section 756;	12
(b)	a punishment being imposed on the owner if	13
	convicted of the evasion offence.	14
(7)	This section applies to a nominated person in the	15
	same way as it applies to an owner.	16
Clause 40	Insertion of new s 755A	17
	Chapter 22—	18
	<i>insert—</i>	19
	755A Information to be stated in statutory	20
	declaration responding to evasion offence	21
	notice	22
(1)	This section prescribes the information that must	23
	be included in a statutory declaration required,	24
	under an evasion offence notice, to be made by	25
	the owner of a motor vehicle involved in an	26
	evasion offence.	27
(2)	The statutory declaration must state the name and	28
	address of the person the owner believes was	29
	driving the motor vehicle when the evasion	30
	offence happened.	31
(3)	However, if the owner does not believe he or she	32
	knows who was driving the motor vehicle when	33

[s 40]

- the evasion offence happened, the statutory 1
declaration must state all of the following 2
information to the extent it is known by the 3
owner— 4
- (a) where the owner was when the evasion 5
offence happened; 6
- (b) the usual location of the vehicle when it is 7
not being used; 8
- (c) the name and address of each person (a 9
potential driver) known by the owner to 10
have access to drive the vehicle when the 11
evasion offence happened; 12
- (d) the way each potential driver has access to 13
drive the vehicle; 14
- Example—* 15
- A potential driver possesses a key for the vehicle 16
and has access to where the vehicle is kept. 17
- (e) how frequently each potential driver 18
normally uses the vehicle and for how long 19
each potential driver normally uses the 20
vehicle; 21
- (f) whether each potential driver uses the 22
vehicle in connection with a business or for 23
private use; 24
- (g) whether the vehicle was reported as stolen, 25
or otherwise being used without consent, 26
when the evasion offence happened; 27
- (h) the nature of the inquiries made by the 28
owner to find out who was driving the 29
vehicle when the evasion offence happened. 30
- (4) Despite subsections (2) and (3)— 31
- (a) if the owner sold the motor vehicle before 32
the evasion offence happened, the statutory 33
declaration need only state— 34

	(i) the name and address of the person to whom the vehicle was sold; and	1 2
	(ii) when the vehicle was sold; or	3
	(b) if the owner purchased the motor vehicle after the evasion offence happened, the statutory declaration need only state—	4 5 6
	(i) the name and address of the person from whom the vehicle was purchased; and	7 8 9
	(ii) when the vehicle was purchased; or	10
	(c) if the owner believes the motor vehicle was stolen when the evasion offence happened, the statutory declaration need only state that belief.	11 12 13 14
	(5) This section applies to a nominated person in the same way as it applies to an owner.	15 16
Clause 41	Amendment of s 756 (Who may be prosecuted for evasion offence if no response to evasion offence notice)	17 18
	(1) Section 756(1)(b), before ‘declaration’—	19
	<i>insert—</i>	20
	statutory	21
	(2) Section 756(1)(b)—	22
	<i>insert—</i>	23
	<i>Note—</i>	24
	Under section 755, a statutory declaration must comply with section 755A.	25 26 27
	(3) Section 756(2), ‘the evasion offence to which the evasion offence notice relates’—	28 29
	<i>omit, insert—</i>	30
	the relevant evasion offence	31

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- (4) Section 756(4), ‘an evasion offence, started against a person’— 1
2
omit, insert— 3
the relevant evasion offence, started against the 4
person 5
- (5) Section 756— 6
insert— 7
- (5) However, the person may not rely on evidence in 8
the defence that is information the person was 9
required to include in the statutory declaration 10
under section 755A unless— 11
- (a) the person gives the prosecuting authority a 12
notice of the person’s intention to seek leave 13
to rely on the evidence at least 21 business 14
days before the day the hearing of the 15
proceeding starts; and 16
- (b) the court grants the person leave to rely on 17
the evidence. 18
- (6) The notice under subsection (5)(a) must— 19
- (a) be in the approved form; and 20
- (b) state the grounds on which the person 21
intends to rely to seek leave; and 22
- (c) be accompanied by a statutory declaration 23
that includes the information the person was 24
required to include in the statutory 25
declaration under section 755A. 26
- (7) The court may grant the person leave under 27
subsection (5)(b) only if the court is satisfied— 28
- (a) the person had a reasonable excuse for not 29
giving the statutory declaration as required 30
under section 755(2)(b); or 31
- (b) the evidence came to the person’s 32
knowledge more than 14 business days after 33

the person was given the evasion offence notice; or	1 2
(c) the interests of justice require that the person be able to rely on the evidence.	3 4
(8) Subsection (9) applies if a statutory declaration, accompanying a notice given to the prosecuting authority under subsection (5)(a), includes information that enables the identification of another person as the actual offender.	5 6 7 8 9
(9) The period of limitation within which a proceeding for the relevant evasion offence may be started against the actual offender starts on the day the prosecuting authority receives the statutory declaration.	10 11 12 13 14
(10) Subsection (9) provides some other time limit for making complaint for the purposes of the <i>Justices Act 1886</i> , section 52.	15 16 17
(11) In this section—	18
<i>prosecuting authority</i> , for a proceeding, means the entity responsible for prosecuting the proceeding.	19 20 21
<i>relevant evasion offence</i> means the evasion offence to which the evasion offence notice relates.	22 23 24
Clause 42 Amendment of s 757 (Evidentiary provision)	25
(1) Section 757(1)—	26
<i>omit, insert—</i>	27
(1) In a proceeding for an evasion offence, a certificate signed by the commissioner and stating any of the following matters is evidence of what it states—	28 29 30 31
(a) that a stated person was the owner of a stated motor vehicle on a stated day;	32 33

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	(b) that a stated police officer gave a stated person an evasion offence notice on a stated day;	1 2 3
	(c) that a stated person gave a stated police officer a statutory declaration under section 755 on a stated day.	4 5 6
(2)	Section 757(3), ‘gave a declaration’— <i>omit, insert—</i> made a statutory declaration under section 755	7 8 9
(3)	Section 757— <i>insert—</i>	10 11
	(4) In a proceeding for an evasion offence, the defendant may not challenge a matter mentioned in subsection (1)(b) or (c) unless the defendant gives the entity responsible for prosecuting the proceeding written notice of intention to challenge the matter at least 10 business days before the day the hearing of the proceeding starts.	12 13 14 15 16 17 18 19
Clause 43	Amendment of s 790 (Offence to assault or obstruct police officer)	20 21
	Section 790(1)— <i>omit, insert—</i>	22 23
	(1) A person must not—	24
	(a) assault a police officer in the performance of the officer’s duties; or	25 26
	(b) obstruct a police officer in the performance of the officer’s duties.	27 28
	Maximum penalty—	29
	(a) if the assault or obstruction happens within licensed premises, or in the vicinity of	30 31

	licensed premises—60 penalty units or 12 months imprisonment; or	1 2
	(b) otherwise—40 penalty units or 6 months imprisonment.	3 4
Clause 44	Insertion of new ch 24, pt 16	5
	Chapter 24—	6
	<i>insert—</i>	7
	Part 16	8
	Transitional provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2018	9 10 11 12
	879 Review relating to high-risk missing persons	13
	(1) The CCC must, as soon as practicable after the end of 5 years after the insertion of chapter 7, part 3A, review the effectiveness of that part and give a report on the review under the <i>Crime and Corruption Act 2001</i> .	14 15 16 17 18
	(2) The conduct of the review and the preparation of the report is taken to be a research function of the CCC for the <i>Crime and Corruption Act 2001</i> .	19 20 21
	(3) In the course of preparing the report, the CCC must consult with the Minister.	22 23
	(4) The CCC must give a copy of the report to the Speaker for tabling in the Legislative Assembly.	24 25
	880 Evasion offence notices given before commencement	26 27
	(1) This section applies if—	28

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	(a) before the commencement, a police officer gave the owner of a motor vehicle an evasion offence notice under former section 755; and	1 2 3 4
	(b) the 4 business days within which the owner may give a declaration under former section 755 had not yet ended at the commencement.	5 6 7 8
	(2) Despite the commencement of the amendment Act, the former provisions of this Act continue to apply in relation to the notice and the person to whom the notice was given.	9 10 11 12
	(3) In this section—	13
	<i>amendment Act</i> means the <i>Police Powers and Responsibilities and Other Legislation Amendment Act 2018</i> .	14 15 16
	<i>former provision</i> , of this Act, means the provision as in force immediately before it was amended under the amendment Act.	17 18 19
Clause 45	Amendment of sch 2 (Relevant offences for controlled operations and surveillance device warrants)	20 21
	Schedule 2—	22
	<i>insert—</i>	23
	5A Racing Integrity Act 2016	24
	An offence against the following provisions of the <i>Racing Integrity Act 2016</i> —	25 26
	• section 221 (Unlawful bookmaking other than by racing bookmakers etc.)	27 28
	• section 223 (Prohibition on opening, keeping, using or promoting an illegal betting place).	29 30 31

Clause 46	Amendment of sch 5 (Additional controlled activity offences)	1
		2
	Schedule 5, after section 9—	3
	<i>insert—</i>	4
	9AARacing Integrity Act 2016	5
	An offence against the <i>Racing Integrity Act 2016</i> , section 225 (Using an illegal betting place).	6
		7
Clause 47	Amendment of sch 6 (Dictionary)	8
(1)	Schedule 6, definitions <i>crime scene</i> , <i>primary crime scene</i> , <i>responsible officer</i> and <i>secondary crime scene—</i>	9
	<i>omit.</i>	10
		11
(2)	Schedule 6—	12
	<i>insert—</i>	13
	<i>cannabis</i> means <i>Cannabis sativa</i> .	14
	<i>commissioned officer</i> , for chapter 7, part 3A, see section 179A.	15
		16
	<i>crime scene</i> see section 163B.	17
	<i>crime scene threshold offence</i> , for chapter 7, part 3, see section 163A.	18
		19
	<i>missing person</i> , for chapter 7, part 3A, see section 179B.	20
		21
	<i>missing person powers</i> , for chapter 7, part 3A, see section 179A.	22
		23
	<i>missing person scene</i> , for chapter 7, part 3A, see section 179A.	24
		25
	<i>missing person warrant</i> , for chapter 7, part 3A, see section 179J(1).	26
		27
	<i>residence</i> , for chapter 7, part 3A, see section 179A.	28
		29
	<i>responsible officer—</i>	30

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- (a) for chapter 7, part 3—see section 165(1); or 1
- (b) for chapter 7, part 3A—see section 179D. 2
- (3) Schedule 6, definition *minor drugs offence* ‘Cannabis sativa’— 3
- omit, insert—* 4
- cannabis 5

Part 8 **Amendment of Police Powers and Responsibilities Regulation 2012**

Clause 48 **Regulation amended** 10
This part amends the *Police Powers and Responsibilities Regulation 2012*. 11
12

Clause 49 **Amendment of sch 9, s 7 (Crime scene warrant application)** 13
14

- (1) Schedule 9, section 7(d)(i) and (ii)— 15
- omit, insert—* 16
- (i) an indictable offence, for which the maximum penalty is at least 4 years imprisonment, happened at the place; or 17
18
19
- (ii) an offence involving deprivation of liberty happened at the place; or 20
21
- (iii) there may be evidence at the place, of a significant probative value, of the commission of an offence mentioned in subparagraph (i) or (ii) that happened at another place; 22
23
24
25
26

(2) Schedule 9, section 7(g) to (i)— 27

omit, insert— 28

	(g) if the crime scene is not where the relevant offence happened—when and where the relevant offence happened, if known;	1 2 3
	(h) why it is necessary to protect the place to search for and gather evidence of the commission of the relevant offence;	4 5 6
	(i) information about any proceeding started against a person for the relevant offence.	7 8
(3)	Schedule 9, section 7—	9
	<i>insert—</i>	10
	(2) In this section—	11
	<i>relevant offence</i> , for a crime scene, means the suspected offence for which the crime scene is, or is to be, established.	12 13 14
Clause 50	Amendment of sch 9 (Responsibilities code)	15
	Schedule 9—	16
	<i>insert—</i>	17
	Part 2A Powers and responsibilities relating to missing person scenes	18 19 20 21
	11A Who is an authorised assistant for missing person powers	22 23
	For the Act, schedule 6, definition <i>authorised assistant</i> , an assistant is authorised for the Act if—	24 25 26
	(a) the assistant is not a police officer; and	27
	(b) in the opinion of the responsible officer for a missing person scene, the assistant has specialised knowledge or skills of a kind	28 29 30

[s 50]

necessary for exercising a power mentioned	1
in section 179P(1) of the Act at the scene;	2
and	3
<i>Examples—</i>	4
carpenter, electrician, locksmith, photographer	5
(c) the assistant is asked by the responsible	6
officer or an investigating police officer to	7
exercise the power at the missing person	8
scene.	9

11B Missing person warrant application 10

An application for a missing person warrant under	11
section 179J(1) of the Act must state the	12
following—	13
(a) the applicant's name, rank, registered	14
number and station;	15
(b) a description of the place to which the	16
application relates;	17
(c) for a missing person scene that is an	18
occupied place—	19
(i) when the occupier was given notice of	20
the application; or	21
(ii) if the occupier has not been given	22
notice, why notice has not been given;	23
(d) information or evidence being relied on to	24
satisfy the issuer of the missing person	25
warrant of any of the following—	26
(i) the missing person is high-risk;	27
(ii) the place is a residence, place of	28
employment or vehicle for the missing	29
person;	30
(iii) the missing person may be at the place;	31

-
- (iv) information that will assist in locating the missing person is likely to be found at the place; 1
2
3
 - (e) whether the application is to— 4
 - (i) establish a missing person scene; or 5
 - (ii) confirm a missing person scene established under section 179E of the Act; 6
7
8
 - (f) the name of the missing person for whom the missing person scene was, or is to be, established; 9
10
11
 - (g) why it is necessary to protect the place to search for and gather information about the disappearance of the missing person; 12
13
14
 - (h) information about any proceeding started against a person in relation to the disappearance for which the missing person scene was, or is to be, established. 15
16
17
18

11C Missing person warrant extension application 19

- An application for the extension of a missing person warrant under section 179M(2) of the Act must be accompanied by a copy of the original warrant and state the following— 20
21
22
23
- (a) the applicant's name, rank, registered number and station; 24
25
 - (b) when and where the missing person scene was established; 26
27
 - (c) for a missing person scene that is an occupied place— 28
29
 - (i) when the occupier was given notice of the application; or 30
31
 - (ii) if the occupier has not been given notice, why notice has not been given; 32
33

[s 51]

	(d) what investigations have been conducted at the missing person scene;	1 2
	(e) why it is necessary to extend the warrant;	3
	(f) information about any proceeding started against a person for the disappearance for which the missing person scene was established;	4 5 6 7
	(g) the time for which the extension is sought.	8
Clause 51	Amendment of sch 9 (Responsibilities code)	9
	Schedule 9—	10
	<i>insert—</i>	11
	48A Missing person warrants—s 679(1)	12
	The following details about a missing person warrant must be included in the register of enforcement acts—	13 14 15
	(a) when and where the warrant was issued;	16
	(b) the name of the missing person mentioned in the application for the warrant;	17 18
	(c) the benefits derived from the warrant, including, for example, any of the following—	19 20 21
	(i) if the missing person was found;	22
	(ii) if information about the missing person’s disappearance was found;	23 24
	(iii) anything seized during a search relating to the warrant;	25 26
	(iv) any proceeding started because of a search relating to the warrant.	27 28

Part 9	Amendment of Police Service Administration Act 1990	1 2
Clause 52	Act amended	3
	This part amends the <i>Police Service Administration Act 1990</i> .	4
Clause 53	Amendment of s 4.10 (Delegation)	5
	Section 4.10—	6
	<i>insert—</i>	7
	(4) Proof of a delegation by the commissioner under subsection (1) is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the delegation at least 10 business days before the hearing date.	8 9 10 11 12 13
	(5) The notice must be in the approved form.	14
Clause 54	Amendment of s 10.12 (Legal proceedings)	15
	Section 10.12(4)—	16
	<i>omit.</i>	17
Part 10	Amendment of State Penalties Enforcement Act 1999	18 19
Clause 55	Act amended	20
	This part amends the <i>State Penalties Enforcement Act 1999</i> .	21
Clause 56	Amendment of s 157 (Evidentiary provisions)	22
	(1) Section 157—	23

[s 57]

insert—

(4A) Subsections (6) and (7) apply if there is a delegation by an administering authority or the registrar of a power to give a certificate under subsection (2) or (3).

(4B) Proof of the delegation is not required in a proceeding unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the delegation at least 10 business days before the hearing date.

(4C) The notice must be in the approved form.

(2) Section 157(4A) to (5)—

renumber as section 157(5) to (8).

Clause 57 Amendment of s 162 (Approval of forms by administering authority)

Section 162, from ‘use’—

omit, insert—

use under this Act as—

(a) infringement notices; or

(b) notices of intention to challenge a delegation under section 157(6).

Part 11 Amendment of Transport Planning and Coordination Act 1994

Clause 58 Act amended

This part amends the *Transport Planning and Coordination Act 1994*.

Clause 59	Amendment of s 37 (Delegation by the Minister or the chief executive)	1 2
	Section 37—	3
	<i>insert—</i>	4
	(3) Proof of a delegation by the chief executive under subsection (1) is not required in a proceeding under this Act or a relevant transport Act unless the defendant gives the entity responsible for prosecuting the proceeding a notice of intention to challenge the delegation at least 10 business days before the hearing date.	5 6 7 8 9 10 11
	(4) The notice must be in the form approved by the chief executive.	12 13
	(5) In this section—	14
	<i>relevant transport Act</i> means—	15
	(a) the <i>Heavy Vehicle National Law Act 2012</i> ; or	16 17
	(b) the <i>Motor Accident Insurance Act 1994</i> ; or	18
	(c) the <i>Tow Truck Act 1973</i> ; or	19
	(d) the <i>Transport Infrastructure Act 1994</i> ; or	20
	(e) the <i>Transport Operations (Marine Pollution) Act 1995</i> ; or	21 22
	(f) the <i>Transport Operations (Marine Safety) Act 1994</i> ; or	23 24
	(g) the <i>Transport Operations (Passenger Transport) Act 1994</i> ; or	25 26
	(h) the <i>Transport Operations (Road Use Management) Act 1995</i> .	27 28