

Queensland



# WITNESS PROTECTION ACT 2000

**Reprinted as in force on 15 January 2002  
(includes amendments up to Act No. 69 of 2001)**

**Reprint No. 1A**

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# Information about this reprint

This Act is reprinted as at 15 January 2002. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Queensland



**WITNESS PROTECTION ACT 2000**

**TABLE OF PROVISIONS**

Section		Page
<b>PART 1—PRELIMINARY</b>		
1	Short title . . . . .	5
2	Commencement . . . . .	5
3	Dictionary . . . . .	5
4	Act binds State, Commonwealth and other States . . . . .	5
<b>PART 2—WITNESS PROTECTION PROGRAM</b>		
5	Witness protection program . . . . .	5
6	Person may be included in program . . . . .	6
7	Protection agreement . . . . .	7
8	Content of protection agreement . . . . .	8
9	Interim protection . . . . .	9
10	Variation of protection agreement by agreement . . . . .	10
11	Variation by chairperson of protection agreement . . . . .	10
12	Suspension of protection agreement . . . . .	11
13	Voluntary withdrawal from program . . . . .	11
14	When chairperson may end protection under program . . . . .	11
<b>PART 3—PROTECTING IDENTITY OF PROTECTED WITNESSES AND FORMER PROTECTED WITNESSES</b>		
<i>Division 1—Identifying documents</i>		
15	Identifying documents . . . . .	13
16	Application for new identity authority . . . . .	13
17	Power of authorising officer to issue new identity authority . . . . .	14
18	Giving effect to new identity authority . . . . .	14
19	Effect of creation of birth certificate under new identity authority . . . . .	14
20	Special provisions about concealing identities . . . . .	14

*Witness Protection Act 2000*


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21	Restoration of former identity . . . . .	15
22	Particular documents to be destroyed . . . . .	16
23	Offence in relation to documents . . . . .	16
	<b><i>Division 2—Provisions about proceedings involving protected witnesses</i></b>	
24	Requirement if person given new identity becomes a witness in relevant proceeding . . . . .	17
25	What non-disclosure certificate must state . . . . .	17
26	Effect of non-disclosure certificate . . . . .	18
27	Relevant entity may grant leave to disclose relevant information . . . . .	18
	<b><i>Division 3—Other provisions about protecting identity</i></b>	
28	Documentation restrictions . . . . .	20
29	Special commercial arrangements by chairperson . . . . .	20
30	Dealing with rights, obligations and restrictions of protected witness . . . . .	20
31	Avoidance of obligations by protected witness . . . . .	20
32	Payments under witness protection program . . . . .	21
33	Application of s 16 to approved authorities . . . . .	21
34	Effect of issue of birth certificate under complementary witness protection law . . . . .	22
	<b>PART 4—MISCELLANEOUS</b>	
35	Development of training programs etc. . . . .	22
36	Offence of disclosures about protected witnesses . . . . .	23
37	Offence of disclosure by prescribed persons . . . . .	23
38	Certain persons not to be required to disclose information . . . . .	24
39	Restriction on issue of Queensland identity documents . . . . .	25
40	Arrangements with approved authorities . . . . .	25
41	Approved authorities . . . . .	26
42	Arrangements for Commonwealth identity documents . . . . .	26
43	Providing information to approved authorities . . . . .	26
44	Immunity from legal proceedings for exercise of functions under Act . . . . .	27
45	Access to registers . . . . .	27
46	Notifying persons of decisions . . . . .	28
47	Special provision about minors and adults with impaired capacity . . . . .	28
48	Delegation . . . . .	29

49	Approval of forms . . . . .	29
50	Proceedings . . . . .	29
51	Regulation-making power . . . . .	29

**PART 5—TRANSITIONAL PROVISIONS**

53	Existing witness protection program . . . . .	30
54	Existing memorandum of understanding . . . . .	30

	<b>SCHEDULE 2</b> . . . . .	31
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**DICTIONARY**

**ENDNOTES**

1	Index to endnotes . . . . .	35
2	Date to which amendments incorporated. . . . .	35
3	Key . . . . .	35
4	Table of earlier reprints . . . . .	36
5	List of legislation . . . . .	36
6	List of annotations . . . . .	36



# **WITNESS PROTECTION ACT 2000**

[as amended by all amendments that commenced on or before 15 January 2002]

**An Act about witness protection in Queensland, and for other purposes**

## **PART 1—PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Witness Protection Act 2000*.

### **2 Commencement**

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

### **3 Dictionary**

The dictionary in schedule 2 defines terms used in this Act.

### **4 Act binds State, Commonwealth and other States**

This Act binds the State and, as far as the legislative authority of the Parliament permits, the Commonwealth and the other States.

## **PART 2—WITNESS PROTECTION PROGRAM**

### **5 Witness protection program**

The “**witness protection program**” is a program, run by the commission, to provide witness protection for—

- (a) persons included in the program under this Act; and

- (b) persons who are being protected under a witness protection program under a complementary witness protection law.

## **6 Person may be included in program**

(1) The chairperson may include a person in the program on the chairperson's own initiative, or on the application of a law enforcement agency, if the chairperson considers—

- (a) the person needs protection from a danger arising—
  - (i) because the person has helped, or is helping, a law enforcement agency in the performance of its functions; or
  - (ii) because of the person's relationship or association with a person who has helped, or is helping, a law enforcement agency in the performance of its functions; and
- (b) it is appropriate to include the person in the program.

*Example for paragraph (a)(ii)—*

A family member or an associate of a person who has helped a law enforcement agency in a criminal investigation.

(2) An application of a law enforcement agency other than the commission may be signed by the agency's chief executive officer or an officer authorised by the agency's chief executive officer to sign the application.

(3) In deciding whether to include the person in the program, the chairperson must have regard to the following—

- (a) the person's criminal history;
- (b) medical, psychiatric or psychological information about the person made available to the chairperson with the person's consent or under an arrangement under section 40;<sup>1</sup>
- (c) if the person has helped, or is helping, a law enforcement agency in the performance of its functions—the seriousness of any offence in relation to which the person has given, or is giving help;
- (d) the extent of the help the person can offer, or has offered;
- (e) any other available way of protecting the person;

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<sup>1</sup> Section 40 (Arrangements with approved authorities)



- (f) the nature of any threat to the person considered by the person or the chairperson to exist;
- (g) whether the person has applied previously for protection under any of the following and, if the person was given protection, the nature of the protection and the circumstances in which the protection ended—
  - (i) this Act;
  - (ii) the *Criminal Justice Act 1989* or the *Crime and Misconduct Act 2001*;
  - (iii) a corresponding witness protection law;
- (h) any information disclosed to the chairperson of a type required under a regulation.

(4) The chairperson must not include the person in the program—

- (a) if the chairperson considers there is not enough information available to the chairperson to decide whether to include the person in the program; or
- (b) as a reward for giving evidence or making a statement.

(5) If the chairperson decides not to include the person in the program, the chairperson must notify the person of the decision.<sup>2</sup>

## 7 Protection agreement

(1) If the chairperson decides to include a person in the program, the chairperson must prepare an agreement (“**protection agreement**”) about the person’s inclusion in the program.

(2) The person must sign the protection agreement in the presence of a witness protection officer.<sup>3</sup>

(3) The person is included in the program and becomes a protected witness when the protection agreement has been signed by the chairperson and the person.

(4) As soon as practicable after the protection agreement has been signed by the protected witness and the chairperson, the chairperson must—

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2 For how notice may be given, see section 46 (Notifying persons of decisions).

3 For who can sign documents for a minor or an adult with impaired capacity, see section 47 (Special provision about minors and adults with impaired capacity).

- (a) if the protected witness signed the agreement personally—notify the protected witness of his or her inclusion in the program; or
- (b) otherwise—notify the person who signed the agreement for the protected witness of the inclusion of the protected witness in the program.

## **8 Content of protection agreement**

(1) A protection agreement must include a condition (“**mandatory condition**”) to the effect that the chairperson may, under section 14,<sup>4</sup> end a person’s involvement in the program as a protected witness if the person contravenes a termination condition.

(2) A protection agreement may include other conditions the chairperson considers appropriate including, but not limited to, the following conditions—

- (a) a condition that the person must not—
  - (i) contravene a law of the Commonwealth or of a State; or
  - (ii) engage in a stated kind of activity; or
  - (iii) compromise the integrity of the program; or
  - (iv) directly or indirectly compromise the security, or any other aspect of, the protection or help being given to the person;
- (b) a condition that the person must comply with all reasonable directions of the chairperson about the protection and help given to the person;
- (c) a condition that the person will, if required by the chairperson, undergo any of the following and make the results available to the chairperson—
  - (i) medical, psychological or psychiatric tests or examinations;
  - (ii) drug or alcohol counselling or treatment;
- (d) a condition about the issue and surrender of passports and other documents relating to the person’s identity including, if the person is given a new identity under this Act, documents relating to the person’s new identity;

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4 Section 14 (When chairperson may end protection under program)

*Witness Protection Act 2000*

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- (e) a condition that, while the person is included in the program, the person will disclose to the chairperson details of—
  - (i) any criminal charges made against the person; and
  - (ii) any civil proceeding, including any bankruptcy proceeding, started against the person;
- (f) a condition that, if the person intends to marry and adopt a new name on marriage, the person will inform the chairperson of the person's intention to marry, before marrying;
- (g) a condition that the person must notify the chairperson that the person is or may be required to give evidence in a proceeding.

(3) In addition, a protection agreement may include 1 or more of the following—

- (a) a list of any aliases the person uses, or has used;
- (b) a list of the person's outstanding legal obligations, including, for example, family and taxation obligations;
- (c) an agreement about how obligations mentioned in paragraph (b) are to be met;
- (d) a financial support arrangement;
- (e) details of marriage, family, taxation, welfare and other domestic or relationship obligations.

## 9 Interim protection

(1) This section applies if—

- (a) the chairperson considers a person is in urgent need of the protection available under the program; and
- (b) the chairperson has not decided whether to include the person in the program.

(2) The chairperson may, under section 7, make a protection agreement (“**interim protection agreement**”) with the person as if the chairperson had decided to include the person in the program.

(3) As soon as practicable after making the interim protection agreement, the chairperson must decide under section 6 whether to include the person in the program.

(4) If the chairperson decides to include the person in the program, the chairperson must make a protection agreement with the person under section 7 to replace the interim protection agreement.

(5) If the chairperson decides not to include the person in the program, the chairperson must end the protection under the interim protection agreement by notice to the person.

## **10 Variation of protection agreement by agreement**

(1) A protection agreement, including an interim protection agreement, may be varied by agreement (“**variation agreement**”) between the chairperson and the protected witness under the agreement.

(2) The variation agreement must not have the effect of omitting the mandatory condition from the protection agreement.

(3) The agreement takes effect on the day stated in the variation agreement or, if no day is stated, the day after the variation agreement is made.

## **11 Variation by chairperson of protection agreement**

(1) The chairperson may vary a protection agreement, including an interim protection agreement, other than by agreement with the protected witness under the agreement.

(2) Before the chairperson varies the agreement, the chairperson must—

- (a) notify the protected witness of the proposed variation and the reason for the variation; and
- (b) give the protected witness a reasonable opportunity to comment on the proposed variation.

(3) If, after considering any comments, the chairperson still proposes to vary the agreement, the chairperson may vary the agreement by notice given to the protected witness.

(4) The variation must not have the effect of omitting the mandatory condition from the protection agreement.

(5) The variation takes effect on the day after the notice is received by the protected witness.

## **12 Suspension of protection agreement**

(1) This section applies if the chairperson is satisfied a protected witness can not properly be protected under the program because of something the protected witness has done or intends to do that stops the person from being appropriately protected.

*Examples—*

1. The protected witness may be temporarily in custody in a watch-house.
2. The protected witness may be imprisoned for an offence.
3. The protected witness may intend to travel to a place despite the chairperson having advised the person not to go there because of the risk of harm to the person.

(2) The chairperson may suspend the protection agreement for a stated reasonable time by notice given to the protected witness.

(3) This section does not limit section 14.

## **13 Voluntary withdrawal from program**

(1) A protected witness may withdraw from the program by written or oral notice given to the chairperson.

(2) If the notice is given orally, the chairperson must take reasonable steps to have the notice confirmed in writing.

(3) If the protected witness is unwilling or unable to confirm the notice in writing, the chairperson must satisfy himself or herself that the oral notice was in fact given by the protected witness.

(4) If the chairperson is satisfied the person did give notice of withdrawal from the program, the chairperson may end the protection—

- (a) if the notice was written—on the day stated in the notice or, if no day is stated, the day after the chairperson receives the notice; or
- (b) if the notice was given orally—on the day after the chairperson is satisfied the oral notice was in fact given.

## **14 When chairperson may end protection under program**

(1) The chairperson may end the protection of a protected witness if—

- (a) the chairperson is satisfied—

*Witness Protection Act 2000*

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- (i) the protected witness has committed an offence against a law of the Commonwealth or a State that is punishable by at least 1 year's imprisonment; or
  - (ii) the protected witness has contravened a termination condition without reasonable excuse and the contravention is significant; or
  - (iii) the protected witness has withdrawn his or her help under section 6(1)(a)(i);<sup>5</sup> or
- (b) the chairperson considers it is no longer appropriate for the protected witness to be included in the program, including, for example, because the protected witness's conduct is a threat to the integrity of the program.

**(2)** Before ending the protection, the chairperson must take the steps the chairperson considers are reasonably necessary—

- (a) to inform the protected person—
  - (i) why it is proposed to end the protection; and
  - (ii) when the protection will end; and
- (b) to give the person a reasonable opportunity to state why the protection should not end.

**(3)** After considering any response, the chairperson may end the protection on the date stated under subsection (2)(a)(ii) or decide not to end the protection.

**(4)** If—

- (a) the chairperson ends the protection; and
- (b) the person acknowledges that the protection has ended; and
- (c) immediately before the protection ended, the person was receiving financial help under the protection agreement made for the person;

the chairperson may, continue to provide financial help to the person for the time the chairperson considers appropriate.

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<sup>5</sup> Section 6 (Person may be included in program)

## **PART 3—PROTECTING IDENTITY OF PROTECTED WITNESSES AND FORMER PROTECTED WITNESSES**

### *Division 1—Identifying documents*

#### **15 Identifying documents**

(1) The chairperson may, in the way the chairperson considers appropriate, require a person responsible for issuing an identity document—

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

(2) The person must comply with the requirement.

(3) This section has effect despite any other Act or law.

#### **16 Application for new identity authority**

(1) The chairperson may apply to the authorising officer for a new identity authority for a protected witness.

(2) The application must be written and include enough information to enable the authorising officer to properly consider whether the protected witness should be given a new identity.

(3) The authorising officer may refuse to consider the application until the chairperson gives the authorising officer all the information the authorising office requires about the application in the way the authorising officer requires.

*Example—*

The authorising officer may require additional information about the application to be given by statutory declaration.

## **17 Power of authorising officer to issue new identity authority**

(1) This section applies if the authorising officer is satisfied—

- (a) a person is a protected witness; and
- (b) the protected witness is likely to comply with his or her protection agreement; and
- (c) it is necessary to change the protected witness's identity to protect the protected witness.

(2) The authorising officer may issue an authority (“**new identity authority**”) stating that a named witness protection officer is authorised to create a birth certificate to give the protected witness to whom the certificate relates a new identity.

## **18 Giving effect to new identity authority**

On the production of a new identity authority to the registrar-general, for inspection—

- (a) the officer named in the authority may create a birth certificate showing the new identity for the protected witness; and
- (b) the registrar-general must give the officer the help the officer reasonably requires for the purpose.

## **19 Effect of creation of birth certificate under new identity authority**

If a protected witness is given a new identity by creating a birth certificate under a new identity authority, the new identity is taken, for all purposes, to be the person's actual identity, unless the person's former identity is restored under this Act.

## **20 Special provisions about concealing identities**

(1) This section applies despite any other Act or law.

(2) It is lawful for a person responsible for issuing a relevant document to issue, at the request of the chairperson or in accordance with a new identity authority, a document that helps a protected witness conceal his or her actual identity and personal particulars, including, for example, his or her date and place of birth.



(3) The chairperson, the authorising officer, the person authorised to create a relevant document, the person responsible for issuing the document, and anyone helping to issue the document—

- (a) does not commit an offence against any Act or law by authorising, issuing or helping to issue the document; and
- (b) no civil proceeding may be started or continued against the person only because of the issue of the document.

(4) Also, any contract or agreement made with a person given a new identity under this Act is not invalid only because of the use by the person of the new identity while the person is authorised under this Act to use the new identity.

(5) In this section—

**“relevant document”** means a document that—

- (a) may lawfully be issued under an Act; and
- (b) may be used to identify a person or authorise a person to do a lawful act.

## **21 Restoration of former identity**

(1) This section applies if—

- (a) protection given to a person who has been given a new identity under the program has ended; and
- (b) the chairperson considers it appropriate, having regard to the following, to restore the person’s former identity—
  - (i) the length of time the person has been known under the new identity;
  - (ii) the circumstances in which the protection was provided;
  - (iii) the effect restoring the person’s former identity may have on the person and members of the person’s family, including on the safety of those persons.

(2) The chairperson must—

- (a) take reasonable steps to notify the person of the proposed action and the reasons for taking the proposed action; and
- (b) give the person a reasonable opportunity to comment on the proposal.

(3) If after considering any comments made by the person, the chairperson considers it is still appropriate to restore the person's former identity, the chairperson may take the action the chairperson considers necessary to restore the person's former identity.

(4) If the chairperson decides to restore the person's former identity, the chairperson must, by notice to the person, require the person to return to the chairperson at a stated place and within a stated time, of at least 14 days, any documents given to the person—

- (a) to allow the person to establish a new identity; or
- (b) to give the person a new identity.

(5) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—60 penalty units.

## **22 Particular documents to be destroyed**

(1) This section applies to a document returned to the chairperson under a protection agreement or section 21.

(2) The chairperson must—

- (a) destroy the document as soon as practicable after receiving it; or
- (b) make arrangements with the person responsible for issuing the document for the destruction of the document.

(3) Subsection (2) applies despite the Public Records Act.

## **23 Offence in relation to documents**

A person for whom a birth certificate is created under this Act must not use or obtain a document issued by the registrar-general based on the person's former identity, unless the person's former identity is restored.

Maximum penalty—60 penalty units.

***Division 2—Provisions about proceedings involving protected witnesses*****24 Requirement if person given new identity becomes a witness in relevant proceeding**

(1) If a person given a new identity under this Act is or may be required to give evidence in a relevant proceeding under the new identity, the person must notify the chairperson that the person is or may be required to give evidence in the relevant proceeding.

Maximum penalty—60 penalty units.

(2) The chairperson must give the relevant entity a certificate (“**non-disclosure certificate**”) relating to the person.

(3) If the relevant entity considers it appropriate in the relevant proceeding, the relevant entity may disclose to each party to the proceeding—

- (a) that the relevant entity has been given a non-disclosure certificate relating to a person who may be required to give evidence in the proceeding; and
- (b) what the certificate states.

(4) The relevant entity—

- (a) may only disclose what the non-disclosure certificate states in the absence of any jury empanelled for the proceeding and the public; and
- (b) when disclosing the certificate’s existence, must inform the parties of the effect of the certificate.

**25 What non-disclosure certificate must state**

(1) The non-disclosure certificate must state—

- (a) the person is, or has been, included in the witness protection program; and
- (b) the person has been given a new identity under this Act; and
- (c) the person has not been convicted of any offence, other than a stated offence.

(2) The certificate must not include any information that may enable the former identity of the person to be revealed.

## **26 Effect of non-disclosure certificate**

(1) Subject to section 27, on the giving of the non-disclosure certificate—

- (a) a question may not be asked in the relevant proceeding that may lead to the disclosure of the former identity of the protected witness or where the protected witness lives; and
- (b) a witness in the relevant proceeding, including the protected witness, can not be required to answer a question, give any evidence, or provide any information, that may lead to the disclosure of the former identity of the protected witness or where the protected witness lives; and
- (c) a person involved in the relevant proceeding must not in the relevant proceeding make a statement that discloses or could disclose the former identity of the protected witness or where the witness lives.

(2) This section applies despite any other Act.

## **27 Relevant entity may grant leave to disclose relevant information**

(1) The relevant entity may, on application made to it, give leave to any of the following (“**relevant party**”) to ask questions of a witness, including the protected witness, or make a statement that, if answered or made, may disclose the protected witness’s former identity or where the protected witness lives—

- (a) for a criminal proceeding—
  - (i) the prosecutor; and
  - (ii) each accused person to whom the relevant proceeding relates or the person’s lawyer;
- (b) for a civil proceeding—each party to the relevant proceeding or the party’s lawyer;
- (c) for another proceeding—each person who has been given leave to appear in the relevant proceeding or the person’s lawyer;
- (d) in any proceeding—a lawyer assisting the relevant entity.

(2) The relevant entity may direct that the application be heard in the absence of any jury empanelled for the proceeding and the public.

*Witness Protection Act 2000*

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**(3)** The relevant entity must not give leave under subsection (1) unless satisfied—

- (a) there is some evidence that, if believed, would call into question the credibility of the protected witness; and
- (b) it is in the interests of justice for the relevant party to be able to test the credibility of the protected witness; and
- (c) it would be impractical to test properly the credibility of the protected witness without knowing the actual identity of the person.

**(4)** If the relevant entity gives leave, a person may, in accordance with the leave—

- (a) ask a question that may lead to the disclosure of the actual identity of the protected witness or where the protected witness lives; or
- (b) answer a question, give evidence, or provide information that may lead to the disclosure of the actual identity of the protected witness or where the protected witness lives; or
- (c) make a statement that discloses or could disclose the actual identity of the protected witness or where the protected witness lives.

**(5)** If the relevant entity gives leave, the relevant entity—

- (a) must hold the part of the proceeding that relates to relevant information in the absence of the public; and
- (b) must make an order for the suppression of publication of evidence given before it that it considers will ensure relevant information is not disclosed; and
- (c) may make any other order the relevant entity considers appropriate.

**(6)** A person must not contravene an order made under subsection (5).

Maximum penalty—85 penalty units or 1 year's imprisonment.

**(7)** Subsection (6) does not limit the relevant entity's power to punish for contempt.

***Division 3—Other provisions about protecting identity*****28 Documentation restrictions**

The chairperson must not obtain a document for a protected witness representing that the protected witness—

- (a) has a qualification the protected witness does not have; or
- (b) is entitled to a benefit the protected witness would not be entitled to if the protected witness were not included in the program.

**29 Special commercial arrangements by chairperson**

The chairperson may make a commercial arrangement with a person under which a protected witness may obtain a benefit under a contract or arrangement without revealing his or her former identity.

**30 Dealing with rights, obligations and restrictions of protected witness**

(1) The chairperson must take any reasonably practicable steps to ensure—

- (a) all outstanding rights and obligations of a protected witness are dealt with according to law; and
- (b) a protected witness complies with all restrictions applying to the protected witness.

(2) The steps the chairperson may take include the following—

- (a) providing protection for the protected witness while the protected witness is attending court;
- (b) notifying a party or possible party to a proceeding that the chairperson will, on behalf of the protected witness, accept process issued by a court, tribunal or commission of inquiry, and nominating a witness protection officer for the purpose.

**31 Avoidance of obligations by protected witness**

(1) If the chairperson is satisfied a protected witness who has been given a new identity under the program is using the new identity to avoid obligations incurred or restrictions imposed before the new identity was

established, the chairperson must give the protected witness notice of the fact.

(2) The notice must also state that, unless the protected witness satisfies the chairperson the obligations will be dealt with according to law or the restrictions will be complied with, the chairperson will take the action the chairperson considers reasonably necessary to ensure the obligations are dealt with or the restrictions are complied with.

(3) The action may include informing a person who is seeking to enforce rights against the protected witness of the details of any real or personal property owned by the protected witness under his or her former identity.

### **32 Payments under witness protection program**

(1) The chairperson may certify in writing that all or part of an amount paid to a person represents payments made to the person under the witness protection program.

(2) The amount can not be confiscated or restrained, and can not be applied in payment of pecuniary penalties, under the *Crimes (Confiscation) Act 1989*.

### **33 Application of s 16 to approved authorities**

(1) This section applies if—

- (a) a person is included in a witness protection program under a complementary witness protection law; and
- (b) the chief executive officer of an approved authority considers it is necessary for the chief executive officer to apply to the authorising officer for a new identity authority under this Act.

(2) Section 16<sup>6</sup> applies to the person as if—

- (a) the person were included in the witness protection program under this Act; and
- (b) the chief executive officer were the chairperson.

(3) A reference in this part to a protection agreement is taken to include a reference to a document that is the equivalent of a protection agreement under a complementary witness protection law.

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6 Section 16 (Application for new identity authority)

**34 Effect of issue of birth certificate under complementary witness protection law**

(1) This section applies if a person is given a new identity under a complementary witness protection law by issuing a document equivalent to a birth certificate under the complementary witness protection law.

(2) While the person is in Queensland, the new identity is taken, for all purposes, to be the person's actual identity, unless the person's former identity is restored under the complementary witness protection law.

**PART 4—MISCELLANEOUS****35 Development of training programs etc.**

(1) For giving effect to the witness protection program, the chairperson—

- (a) must develop appropriate training programs and ensure persons involved in providing witness protection are appropriately trained to perform the duties of witness protection; and
- (b) must develop ways of providing adequate witness protection to persons generally or in particular cases; and
- (c) must keep an accurate register of—
  - (i) the factual particulars and assumed particulars of persons who have assumed new identities under the witness protection program; and
  - (ii) non-disclosure certificates given under this Act; and
- (d) may do anything else the chairperson considers reasonably necessary to give effect to the program.

(2) A register mentioned in subsection (1)(c) may form part of another register kept by the chairperson under the *Crime and Misconduct Act 2001*.



**36 Offence of disclosures about protected witnesses**

(1) This section applies to the disclosure of information about a person who is, or has been, included in the witness protection program (“**relevant person**”).

(2) A person must not knowingly, directly or indirectly, disclose or record information about a relevant person if the information compromises the security of a relevant person or the integrity of the program.

Maximum penalty—10 years imprisonment.

(3) Subsection (2) does not apply to a disclosure or record that—

- (a) is necessary to provide witness protection; or
- (b) is made with the chairperson’s consent; or
- (c) is otherwise required for the administration of this Act or the *Crime and Misconduct Act 2001*; or
- (d) is permitted by leave given under section 27.<sup>7</sup>

(4) In this section—

“**disclose**” information, includes allow access to the information.

**37 Offence of disclosure by prescribed persons**

(1) A prescribed person must not, directly or indirectly, disclose or communicate to another person—

- (a) that the prescribed person or someone else known to the prescribed person has—
  - (i) undergone assessment for inclusion in the program; or
  - (ii) signed a protection agreement; or
- (b) details of a protection agreement signed by the prescribed person or someone else known to the prescribed person; or
- (c) information about anything done under this Act by—
  - (i) the chairperson of the Criminal Justice Commission or an officer of the witness protection division of that commission; or
  - (ii) the chairperson or a witness protection officer; or

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<sup>7</sup> Section 27 (Relevant entity may grant leave to disclose relevant information)

- (d) information gained by the person because of something done under this Act and about—
  - (i) an officer of the witness protection division of the Criminal Justice Commission; or
  - (ii) a witness protection officer.

Maximum penalty—1 year’s imprisonment.

- (2) Subsection (1) does not apply to a disclosure or communication—
  - (a) authorised by the chairperson; or
  - (b) necessary to give effect to a new identity authority; or
  - (c) permitted by leave given under section 27;<sup>8</sup> or
  - (d) to the parliamentary committee.

(3) In this section—

**“prescribed person”** means—

- (a) a protected witness; or
- (b) a former protected witness; or
- (c) a person who has undergone assessment for inclusion in the program.

### **38 Certain persons not to be required to disclose information**

(1) This section applies to a person (**“relevant person”**) who is or has been—

- (a) a member of the commission, including the chairperson; or
- (b) an officer of the commission; or
- (c) the registrar-general; or
- (d) a person employed in the administration of the *Registration of Births, Deaths and Marriages Act 1962*; or
- (e) the chief executive officer of an approved authority; or
- (f) a member of the staff of an approved authority; or
- (g) an authorising officer; or

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8 Section 27 (Relevant entity may grant leave to disclose relevant information)

- (h) an officer of an entity providing services to or for a protected person at the request of the chairperson; or
- (i) a member of the parliamentary committee under the *Crime and Misconduct Act 2001*; or
- (j) the parliamentary commissioner under the *Crime and Misconduct Act 2001*.

(2) In a relevant proceeding, a relevant person can not be required to produce a document or to disclose anything relating to the performance of duties or the protection of persons under this Act, unless—

- (a) a District Court judge or Supreme Court judge otherwise orders; or
- (b) the proceeding relates to an offence against this Act.

(3) Subsection (2) does not prevent a member or officer of the commission producing documents or disclosing information under an approval given by the chairperson for the relevant proceeding.

### **39 Restriction on issue of Queensland identity documents**

A person responsible for issuing a Queensland identity document must not issue an identity document for a person included in a witness protection program being conducted by the Commonwealth or another State unless the document is issued under an arrangement under section 40.

### **40 Arrangements with approved authorities**

(1) The chairperson may make an arrangement with the chief executive officer of an approved authority about any matter relating to the administration of a complementary witness protection law.

(2) Without limiting subsection (1), the arrangement—

- (a) may provide for the exercise by the chairperson of functions conferred under the complementary witness protection law; and
- (b) must include procedures under which the approved authority shares with the State the costs incurred under the arrangements; and
- (c) may provide for the approved authority to make available to the chairperson the statements, transcripts of evidence and other documents necessary to help the chairperson decide—

- (i) whether to provide protection or help to a person under this Act; and
- (ii) what protection and help are appropriate for a person.

#### **41 Approved authorities**

A regulation may authorise the chief executive officer of an approved authority to exercise powers conferred on the chairperson under this Act, other than under section 33,<sup>9</sup> for an arrangement made under section 40 or the corresponding provision of a complementary witness protection law.

#### **42 Arrangements for Commonwealth identity documents**

The Minister may, for the State, enter into an arrangement with the Minister responsible for the administration of the *Witness Protection Act 1994* (Cwlth) about the issue of Commonwealth identity documents within the meaning of that Act.

#### **43 Providing information to approved authorities**

(1) This section applies if—

- (a) a person has been given a new identity or relocated under this Act; and
- (b) any of the following entities notifies the chairperson that the person is under investigation for, has been arrested for, or has been charged with, a serious offence—
  - (i) an approved authority;
  - (ii) the commissioner of the police service;
  - (iii) the assistant commissioner, crime under the of the *Crime and Misconduct Act 2001*.

(2) The chairperson may do any 1 or more of the following things—

- (a) release to the entity notifying the chairperson under subsection (1)(b) (“**notifying entity**”) the person’s new identity or location;

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<sup>9</sup> Section 33 (Application of s 16 to approved authorities)

- (b) provide the notifying entity with the person's criminal history and fingerprints;
- (c) if the chairperson considers it appropriate in the circumstances—
  - (i) release to the notifying entity information relating to the person; or
  - (ii) allow officers of the notifying entity to interview witness protection officers in relation to the protected witness.

(3) In this section—

**“serious offence”** means an offence against a law of Queensland, the Commonwealth, or another State, that is punishable by at least 1 year's imprisonment.

#### **44 Immunity from legal proceedings for exercise of functions under Act**

(1) A person is not liable to any action, suit or proceedings for an act done or omitted to be done by the person in good faith and without negligence in the exercise or purported exercise of a function conferred by this Act.

(2) If subsection (1) prevents a liability attaching to a person, liability attaches instead to the State.

(3) Subsection (2) does not apply to an officer of an approved authority.

#### **45 Access to registers**

A person other than the following is not entitled to inspect a register kept under this Act—

- (a) the chairperson;
- (b) a commissioner under the *Crime and Misconduct Act 2001*;
- (c) an assistant commissioner under the *Crime and Misconduct Act 2001*;
- (d) a witness protection officer;
- (e) the parliamentary commissioner.

## **46 Notifying persons of decisions**

(1) This section applies if the chairperson is required under this Act to notify a person about the person's involvement in the witness protection program.

(2) The chairperson may notify the person of the decision in the way the chairperson considers appropriate.

*Example for subsection (2)—*

The chairperson may arrange for the person to be shown a written notice stating the decision and asked to sign an acknowledgment of having read and understood the notice.

(3) A notice to be given to a minor may be given to a parent or guardian of the minor.

(4) A notice to be given to an adult with impaired capacity may be given to—

- (a) a person who may exercise powers in relation to personal matters for the adult under a power of attorney under the *Powers of Attorney Act 1998*; or
- (b) a guardian for the adult under the *Guardianship and Administration Act 2000*.

## **47 Special provision about minors and adults with impaired capacity**

(1) This section applies to a notice, agreement, acknowledgment or another document to be signed by a protected witness who is a minor or a person with impaired capacity.

(2) A document to be signed by a minor may be signed by a parent or guardian of the minor.

(3) A document to be signed by an adult with impaired capacity may be signed by—

- (a) a person who may exercise powers in relation to personal matters for the adult under a power of attorney under the *Powers of Attorney Act 1998*; or
- (b) a guardian of the adult under the *Guardianship and Administration Act 2000*.

## **48 Delegation**

(1) The chairperson may delegate powers of the chairperson under this Act to an appropriately qualified witness protection officer.

(2) However, the chairperson must not delegate—

- (a) the power to decide to offer protection other than interim protection; or
- (b) the power to end protection—
  - (i) without a protected witness’s agreement; or
  - (ii) after being given oral notice of a protected witness’s withdrawal from the program; or
- (c) the power to give a non-disclosure certificate.

(3) In this section—

**“appropriately qualified”**, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

## **49 Approval of forms**

The chairperson may approve forms for use under this Act.

## **50 Proceedings**

Proceedings for an offence against this Act may be taken in a summary way under the *Justices Act 1886*.

## **51 Regulation-making power**

The Governor in Council may make regulations under this Act.

## **PART 5—TRANSITIONAL PROVISIONS**

### **53 Existing witness protection program**

On the commencement of this section, a person included in the witness protection program under the *Criminal Justice Act 1989* immediately before the commencement is taken to be included in the witness protection program under this Act.

### **54 Existing memorandum of understanding**

(1) On the commencement of this section, a document signed by a person included in the witness protection program under the *Criminal Justice Act 1989* and purporting to be a memorandum of understanding that is in force is taken to be a protection agreement signed by a protected witness under this Act.

(2) If the memorandum of understanding does not include a condition to the effect of the mandatory condition, the memorandum is taken to include the mandatory condition.



**SCHEDULE 2****DICTIONARY**

section 3

**“approved authority”** means—

- (a) the Australian Federal Police; or
- (b) a police force or service of another State; or
- (c) another entity—
  - (i) established under a law of the Commonwealth or another State; and
  - (ii) authorised under the law of the Commonwealth or other State to investigate or inquire into criminal conduct, misconduct or corruption; and
  - (iii) declared by regulation to be an approved authority for this Act.

**“approved form”** see section 49.

**“authorising officer”** means the independent member of the controlled operations committee under the *Police Powers and Responsibilities Act 2000*.

**“chairperson”** means the chairperson of the commission.

**“chief executive officer”**, of an approved authority, means—

- (a) for a police force or service of another State or the Commonwealth, the commissioner of the police force or service; or
- (b) for another entity, the chief executive officer of the entity, however described.

**“commission”** means the Crime and Misconduct Commission.

**“commission of inquiry”** means a commission of inquiry under the *Commissions of Inquiry Act 1950*.

## SCHEDULE 2 (continued)

**“complementary witness protection law”** means a law of the Commonwealth or another State declared by regulation to be a complementary witness protection law for this Act.

**“criminal history”**, of a protected witness, means the protected witness’s criminal history under the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

**“former identity”**, of a person given a new identity under this Act or a complementary witness protection law, means the identity the person had before being given the new identity.

**“identity document”** means a document, other than a birth certificate, that identifies or helps identify a person.

**“impaired capacity”** means capacity that is impaired capacity under the *Guardianship and Administration Act 2000*.

**“interim protection agreement”** see section 9.

**“law enforcement agency”** means—

- (a) the commission; or
- (b) a commission of inquiry; or
- (d) the police service; or
- (e) the Australian Federal Police; or
- (f) a police force or service of another State; or
- (g) an entity declared under a regulation to be a law enforcement agency for this Act.

**“mandatory condition”** see section 8.

**“new identity authority”** see section 17.

**“non-disclosure certificate”** see section 24.

**“program”** means the witness protection program.

**“protected witness”** means a person included in the witness protection program.

**“protection agreement”** see section 7.

**“Public Records Act”** means—

## SCHEDULE 2 (continued)

- (a) until the commencement of the *Public Records Act 2000*, section 14<sup>10</sup>—the *Libraries and Archives Act 1988*; or
- (b) from the commencement of the *Public Records Act 2000*, section 14—the *Public Records Act 2000*.

**“registrar-general”** means the registrar-general under the *Registration of Births, Deaths and Marriages Act 1962*.

**“relevant entity”** means the entity in which a relevant proceeding is being heard.

**“relevant information”** means information about—

- (a) a person’s former identity; or
- (b) a person’s location; or
- (c) a person’s inclusion or involvement in the program.

**“relevant proceeding”** means—

- (a) a proceeding before a court or tribunal; or
- (b) an examination of witnesses under the *Justices Act 1886* in relation to an indictable offence; or
- (c) an inquest under the *Coroners Act 1958*; or
- (d) a hearing under—
  - (i) the *Crime and Misconduct Act 2001*; or
  - (ii) a commission of inquiry under the *Commissions of Inquiry Act 1950*; or
- (e) an investigation by the parliamentary commissioner under the *Crime and Misconduct Act 2001*.

**“termination condition”** means a condition identified in a protection agreement as a condition that, if contravened, may result in the ending of a person’s involvement in the witness protection program.

**“witness protection”** means protection of a person’s personal safety, including, for example, by giving the person a new identity, relocating the person or helping the person find new employment.

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<sup>10</sup> *Public Records Act 2000*, section 14 (Public authority must ensure particular records remain accessible)

## SCHEDULE 2 (continued)

**“witness protection officer”** means an officer of the commission appointed by the chairperson to administer the witness protection program.

**“witness protection program”** see section 5.

## ENDNOTES

### 1 Index to endnotes

		Page
2	Date to which amendments incorporated . . . . .	35
3	Key . . . . .	35
4	Table of earlier reprints . . . . .	36
5	List of legislation . . . . .	36
6	List of annotations . . . . .	36

### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 January 2002. Future amendments of the Witness Protection Act 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	6 April 2001

## 5 List of legislation

### **Witness Protection Act 2000 No. 56**

date of assent 17 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 9 March 2001 (2001 SL No. 7)

amending legislation—

### **Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1**

date of assent 8 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2002 (2001 SL No. 221)

## 6 List of annotations

### **Witness protection program**

s 5 amd 2001 No. 69 s 378 sch 1

### **Person may be included in program**

s 6 amd 2001 No. 69 s 378 sch 1

### **Protection agreement**

s 7 amd 2001 No. 69 s 378 sch 1

### **Power of authorising officer to issue new identity authority**

s 17 amd 2001 No. 69 s 378 sch 1

### **Dealing with rights, obligations and restrictions of protected witness**

s 30 amd 2001 No. 69 s 378 sch 1

### **Development of training programs etc.**

s 35 amd 2001 No. 69 s 378 sch 1

### **Offence of disclosures about protected witnesses**

s 36 amd 2001 No. 69 s 378 sch 1

### **Offence of disclosure by prescribed persons**

s 37 amd 2001 No. 69 s 378 sch 1

**Certain persons not to be required to disclose information**

**s 38** amd 2001 No. 69 s 378 sch 1

**Providing information to approved authorities**

**s 43** amd 2001 No. 69 s 378 sch 1

**Access to registers**

**s 45** amd 2001 No. 69 s 378 sch 1

**Delegation**

**s 48** amd 2001 No. 69 s 378 sch 1

**Acts amended**

**s 52** om R1 (see RA s 40)

**SCHEDULE 1—ACTS AMENDED**

om R1 (see RA s 40)

**SCHEDULE 2—DICTIONARY**

def “**commission**” amd 2001 No. 69 s 378 sch 1

def “**director**” om 2001 No. 69 s 378 sch 1

def “**law enforcement agency**” amd 2001 No. 69 s 378 sch 1

def “**relevant proceeding**” amd 2001 No. 69 s 378 sch 1

def “**witness protection division**” om 2001 No. 69 s 378 sch 1

def “**witness protection officer**” ins 2001 No. 69 s 378 sch 1