



Public Safety Preservation Act 1986

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Queensland

Public Safety Preservation Act 1986

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Public Safety Preservation Act 1986

An Act to provide protection for members of the public in terrorist, chemical, biological, radiological or other emergencies that create or may create danger of death, injury or distress to any person, loss of or damage to any property or pollution of the environment and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Public Safety Preservation Act 1986*.

3 Crown bound

This Act binds the Crown.

3A Extraterritorial application of Act

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.
- (3) A senior officer may make a declaration under section 5 that an emergency situation exists, in respect of an area within or outside Queensland, if the officer is satisfied on reasonable grounds that an emergency situation has arisen or is likely to arise in Queensland.
- (4) The commissioner or deputy commissioner may, under section 8A—

[s 4]

- (a) appoint a police officer to be a terrorist emergency commander if the commissioner or deputy commissioner is satisfied on reasonable grounds that—
 - (i) an emergency situation has arisen or is likely to arise in Queensland; and
 - (ii) the emergency situation results from or may result from, or may lead to, 1 or more terrorist acts at 1 or more terrorist emergency sites within or outside Queensland; or
 - (b) appoint a terrorist emergency forward commander for a terrorist emergency site within or outside Queensland.
- (5) A power relating to an emergency situation, terrorist emergency or CBR emergency may be exercised in relation to an entity, place or thing within or outside Queensland.
- (6) A declaration under section 5 or 8G of an area surrounding a moving activity, or an extraordinary emergency authorisation for an area surrounding a moving activity—
- (a) may be made even if the area is outside Queensland at the time the declaration is made or the authorisation is given; and
 - (b) is not affected if the area moves outside Queensland while the declaration or authorisation is in effect.
- (7) A declaration under section 8GA of a vehicle or an area surrounding a vehicle—
- (a) may be made even if the vehicle or area is outside Queensland at the time of the declaration; and
 - (b) is not affected if the vehicle or area moves outside Queensland while the declaration is in effect.
- (8) Subsections (3) to (7) do not limit subsection (2).

4 Definitions

The dictionary in the schedule defines particular words used in this Act.

4A Relationship with another declaration under another Act

- (1) This Act does not prevent a person from declaring a state of disaster or another emergency under another Act.
- (2) The existence of another declaration under another Act does not prevent the making of a declaration, or the exercise of powers, under this Act.

Example of another Act under which a declaration may be made—

Disaster Management Act 2003

Part 2 Emergency situation

Division 1 Declarations and delegations

5 Declaration of emergency situation

- (1) Subject to section 6, if at any time a senior officer (the ***emergency commander***) is satisfied on reasonable grounds that an emergency situation has arisen or is likely to arise the senior officer may declare that an emergency situation exists in respect of an area specified by the senior officer.
- (2) Without limiting subsection (1), the specified area may be any description of area surrounding a moving activity.

Examples—

- an area within a stated distance of a stated moving motor vehicle or vessel
 - an area within a stated distance of a stated person who is on foot, in a moving motor vehicle or vessel or moving in another way
- (3) As soon as practicable after making the declaration, the emergency commander must issue a certificate (an ***emergency situation certificate***) signed by the commander stating—
 - (a) that an emergency situation has been declared to exist; and
 - (b) the nature of the emergency situation; and

[s 6]

- (c) the date and time the emergency situation was declared to exist; and
 - (d) the area in respect of which the emergency situation exists.
- (4) The declaration that an emergency situation exists shall continue until revoked by the emergency commander or, if the emergency commander is unavailable, another senior officer.
- (5) The emergency commander or, if the emergency commander is unavailable, another senior officer, shall as soon as practicable thereafter, note the date and time of the revocation on the emergency situation certificate.
- (6) The commissioner must keep the emergency situation certificate for at least 6 years.

6 Effect of declaration under Disaster Management Act 2003

A declaration under section 5 in force when a disaster situation is declared under the *Disaster Management Act 2003* must be revoked by the emergency commander or, if the emergency commander is unavailable, by another senior officer, unless the emergency commander or other senior officer believes on reasonable grounds that it is necessary for the declaration under section 5 to remain in force.

7 Delegation of power for particular periods

- (1) This section only applies for any period for which the emergency commander is not acting as the emergency commander.
- (2) The emergency commander may delegate the commander's functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- (3) The power to delegate does not include the power to delegate the function to—
- (a) issue an emergency situation certificate; or

- (b) make a note under section 5(5), 8AT(b) or 8AW(2)(a) on an emergency situation certificate.
- (4) For each delegation, the emergency commander must attach to the emergency situation certificate a copy of each written instrument mentioned in the *Acts Interpretation Act 1954*, section 27A(3) and a statement outlining any revocation of the delegation.
- (5) Without limiting the *Acts Interpretation Act 1954*, section 27A, if a delegation is in force at the end of the declaration of the emergency situation, the delegation ends.
- (6) In this section—
functions includes powers.

7A Delegation of power to require information

- (1) The emergency commander may delegate the power conferred under section 8AE to an appropriately qualified police officer, including the power to subdelegate that power to another appropriately qualified police officer.
- (2) For each delegation, the emergency commander must attach to the emergency situation certificate a copy of each written instrument mentioned in the *Acts Interpretation Act 1954*, section 27A(3) and a statement outlining any revocation of the delegation.
- (3) Without limiting the *Acts Interpretation Act 1954*, section 27A, if a delegation is in force at the end of the declaration of the emergency situation, the delegation ends.

Division 2 Powers for area in which emergency situation exists

8 General powers

- (1) Where during the period of and in the area specified in respect of an emergency situation the emergency commander is

satisfied on reasonable grounds that it is necessary to effectively deal with that emergency situation he or she (and any other police officer acting on his or her instructions) may—

- (a) direct the owner or the person for the time being in charge or in control of any resource to surrender it and place it under the emergency commander's or police officer's control (***resource surrender direction***);
- (b) take control of any resource, whether it is in the charge or control of any person or not;
- (c) in respect of any resource under the emergency commander's or police officer's control, direct any person who is capable of operating that resource to operate it as directed by him or her (***resource operator direction***);
- (d) direct the evacuation and exclusion of any person or persons from any premises and for this purpose may remove or cause to be removed (using such force as is necessary for that purpose) any person who does not comply with a direction to evacuate or any person who enters, attempts to enter or is found in or on any premises in respect of which a direction for the exclusion of persons has been given;
- (e) close or cause to be closed to traffic and pedestrians, any road, street, motorway, private road, private way, service lane, footway, right of way, access way or other way or close any place to which members of the public have access whether on payment of a fee or otherwise;
- (f) enter or cause to be entered (using such force as is necessary for that purpose) any premises;
- (g) search or cause to be searched (using such force as is necessary for that purpose) any premises and anything found therein or thereon;
- (h) remove or cause to be removed from any premises (using such force as is necessary for that purpose) any animal or anything;

- (i) direct any person to assist him or her in the manner specified by him or her (*help direction*);
 - (j) destroy an explosive that is found in the area specified in respect of the emergency situation.
- (2) The emergency commander or police officer must not give a resource operator direction or a help direction to a person if giving the direction would expose the person to imminent danger.
- (3) A person given a resource surrender direction, a resource operator direction or a help direction must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—40 penalty units or 1 year's imprisonment.

8AAA Requirements for destruction of explosives

- (1) Subsection (2) applies if the destruction of an explosive under section 8(1)(j) by the emergency commander or another police officer is likely to cause structural damage to a building.
- (2) Before destroying the explosive, the emergency commander or police officer must obtain the approval of a State police officer of at least the rank of assistant commissioner, if it is reasonably practicable to do so.
- (3) Subsection (4) applies if—
 - (a) the emergency commander or another police officer destroys an explosive under section 8(1)(j) without approval under subsection (2); and
 - (b) the destruction causes structural damage to a building.
- (4) The emergency commander or police officer must, as soon as reasonably practicable, inform a State police officer of at least the rank of assistant commissioner of the destruction and the structural damage.

Division 3 Power to require information

Subdivision 1 Preliminary

8AA Definitions for division

In this division—

authorised person, for an information matter, see section 8AB.

disclosure notice see section 8AL(2).

disclosure recipient see section 8AD.

employer, of a person, means the person who employs the person or by whom the person is engaged.

give, in relation to information, includes carry out a procedure to generate the information.

information includes a document.

information matter means—

- (a) the fact an information requirement is made of a person;
or
- (b) the nature of the information sought under an information requirement that is made of a person.

information requirement see section 8AE(3).

manager, of a person, means a person who is employed or engaged by the same entity as the person and who manages or supervises the person's work.

relevant officer see section 8AL(4).

unauthorised person, for an information matter, see section 8AC.

work-related information, for a person of whom an information requirement is made, means information that is held, or is to be collected, by an entity by which the person is employed or engaged.

8AB Meaning of *authorised person*

An *authorised person*, for an information matter, is—

- (a) a person who has been given a disclosure notice authorising the disclosure of the information matter to the person; or

Note—

See subdivision 4 for the giving of disclosure notices.

- (b) a police officer to whom an information matter must, or may, be disclosed under this Act.

8AC Meaning of *unauthorised person*

An *unauthorised person*, for an information matter, is a person other than an authorised person for the information matter.

Note—

See subdivision 3 for the restrictions on disclosing an information matter to an unauthorised person.

8AD Meaning of *disclosure recipient*

- (1) A *disclosure recipient* is a person to whom an information matter is disclosed.
- (2) For subsection (1), it does not matter whether the disclosure of the information matter to the person—
 - (a) is made by a person of whom an information requirement is made or another disclosure recipient; or
 - (b) is made lawfully or otherwise.

Note—

A disclosure recipient may be an authorised person, or an unauthorised person, for the information matter that is disclosed to the disclosure recipient.

- (3) However, a person to whom an information matter is disclosed is not a *disclosure recipient* if the disclosure is made to the person—

[s 8AE]

- (a) because the person is a police officer mentioned in any of the following sections—
 - (i) section 8AE(2);
 - (ii) section 8AF(3), definition *relevant matters*, paragraph (h) or (i);
 - (iii) section 8AN(3), definition *relevant matters*, paragraph (j) or (k); or
- (b) for the purpose of receiving or investigating a complaint to a State police officer or the Crime and Corruption Commission.

Subdivision 2 Information requirements

8AE Making of information requirement

- (1) This section applies if, during the period of an emergency situation, the emergency commander is satisfied on reasonable grounds that—
 - (a) a person may be able to give information that is necessary to manage or resolve the emergency situation; and
Examples of persons who may be able to give information that is necessary to manage or resolve the emergency situation—
 - a designated person under the *Hospital and Health Boards Act 2011*, part 7
 - a person who is responsible for a biometric identification system
 - (b) it is not practicable, in the circumstances of the emergency situation, to obtain the information from the person other than under this subdivision.
- (2) The emergency commander or a police officer acting on the emergency commander's instructions may require the person to give the information to—
 - (a) the emergency commander or police officer; or

- (b) another police officer, who may be described by name or by reference to an officer performing a stated function.
- (3) A requirement under subsection (2) is an ***information requirement***.
- (4) An information requirement—
- (a) must be made by written notice; or
- (b) if it is not reasonably practicable in the circumstances to give written notice—may be made orally, but must be confirmed in writing as soon as reasonably practicable after it is made.

Example—

Because the information is required urgently, the police officer does not have time to return to the station to complete a written notice.

- (5) An information requirement may require the person to give the information—
- (a) either—
- (i) if it would be reasonable in the circumstances to require the person to give the information immediately—immediately; or
- (ii) otherwise—by a stated reasonable time and in a stated reasonable way; or

Examples of a reasonable way in which the information may be required to be given—

- telephoning a stated telephone number to give the information by telephone
 - emailing a document to a stated email address
- (b) by attending at a stated reasonable time and place to answer questions or produce documents.
- (6) Also, an information requirement may require the person to give the information on an ongoing basis during the period of the emergency situation.

[s 8AF]

- (7) However, the emergency commander or police officer may not under this section require the person to give the information if the emergency commander or police officer reasonably suspects the person has committed an indictable offence that is directly related to the emergency situation.

Note—

See the *Police Powers and Responsibilities Act 2000* for the powers to question a person suspected of having committed an indictable offence.

- (8) For information that is included in an electronic document, compliance with the information requirement requires—
- (a) the giving of a clear image or written version of the electronic document; or
- (b) the giving of the information in a format that is able to be accessed by the emergency commander or police officer.

Example—

giving a digital file of CCTV footage that is able to be played on a computer

- (9) If the information requirement is current at the end of the declaration of the emergency situation, the information requirement ends.
- (10) In this section—
- electronic document*** means a document of a type under the *Acts Interpretation Act 1954*, schedule 1, definition *document*, paragraph (c).

8AF Person to be informed of relevant matters

- (1) If an information requirement is made of a person by written notice, the notice must state the relevant matters.
- (2) If an information requirement is made of a person orally, the emergency commander or a police officer acting on the emergency commander's instructions must, when making the requirement of the person, tell the person the relevant matters.
- (3) In this section—

relevant matters, in relation to an information requirement that is made of a person, means each of the following—

- (a) an emergency situation has been declared to exist;
- (b) it is an offence for the person not to comply with the information requirement unless the person has a reasonable excuse;
- (c) it is a reasonable excuse for the person not to give the information if—
 - (i) for an individual—giving the information might tend to incriminate the individual or expose the individual to a penalty; or
 - (ii) the information is the subject of legal professional privilege;
- (d) it is an offence for the person to give information the person knows is false or misleading in a material particular unless, when giving information in a document, the person—
 - (i) tells the police officer to whom the information is given, to the best of the person's ability, how the document is false or misleading; and
 - (ii) if the person has, or can reasonably obtain, the correct information—gives the correct information;
- (e) it is an offence for the person to disclose an information matter to an unauthorised person for the information matter unless the person has a reasonable excuse;
- (f) the maximum penalty for committing an offence in relation to the information requirement, with and without a circumstance of aggravation;
- (g) the name, rank, registered number and station of the emergency commander or police officer making the information requirement;
- (h) the contact details of a police officer who may be contacted about the information requirement;

[s 8AG]

Examples of a police officer who may be contacted about the information requirement—

- a stated police officer
 - a police officer performing a stated function
- (i) if the person wishes to disclose an information matter to another person, the person may ask the emergency commander or police officer, or the police officer mentioned in paragraph (h), to give the other person a disclosure notice authorising the disclosure of the information matter to the other person for a stated purpose;
- (j) a police officer may give the person a written notice under section 8AK, including by email from a Queensland Police Service email account, stating that the person is no longer prohibited from disclosing an information matter to other persons;
- (k) if, during the period of the emergency situation, the person is not given a notice mentioned in paragraph (j), a police officer will inform the person when the emergency situation has ended.

8AG Offence to contravene information requirement

- (1) A person of whom an information requirement is made must comply with the information requirement unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) It is a reasonable excuse for the person not to give the information if—
- (a) for an individual—giving the information might tend to incriminate the individual or expose the individual to a penalty; or
 - (b) the information is the subject of legal professional privilege.
- (3) Subsection (2) does not limit what is a reasonable excuse.

-
- (4) It is a defence to a prosecution for an offence against subsection (1) for the person to prove the person—
- (a) could not reasonably comply with the information requirement within the period stated in the requirement; and
 - (b) took reasonable steps to comply with the information requirement; and
 - (c) gave the information sought under the information requirement as soon as practicable after the period for compliance stated in the requirement.
- (5) Subsection (1) applies despite any requirement to maintain confidentiality or other restriction on giving the information, whether imposed under an Act or a rule of law, unless the Act expressly overrides this section.

Note—

See section 8AQ for the person's protection from liability for giving the information.

- (6) A person commits a crime if the person commits an offence against subsection (1) in circumstances where the person—
- (a) intends to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or
 - (iv) seriously prejudice the effective management or resolution of the emergency situation; or
 - (b) knows that, or is reckless as to whether, the person's noncompliance with the information requirement is likely to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or

- (iv) seriously prejudice the effective management or resolution of the emergency situation.

Maximum penalty—10 years imprisonment.

8AH Offence to give false or misleading information

- (1) A person of whom an information requirement is made must not give the nominated officer information the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) Subsection (1) does not apply to a person if the person, when giving information in a document—

- (a) tells the nominated officer, to the best of the person's ability, how the document is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

- (3) A person commits a crime if the person commits an offence against subsection (1) in circumstances where the person—

- (a) intends to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or
 - (iv) seriously prejudice the effective management or resolution of the emergency situation; or
- (b) knows that, or is reckless as to whether, giving the false or misleading information is likely to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or

- (iv) seriously prejudice the effective management or resolution of the emergency situation.

Maximum penalty—10 years imprisonment.

- (4) In this section—

nominated officer, in relation to a person of whom an information requirement is made, means the police officer to whom the person is required to give the information under the information requirement.

Note—

See section 8AE(2) for the police officers to whom a person may be required to give the information under an information requirement.

Subdivision 3 Restrictions on disclosing information matter to unauthorised persons

8AI Offence for person to disclose information matter to unauthorised person

- (1) During the period of an emergency situation, a person of whom an information requirement has been made must not, without reasonable excuse, disclose an information matter to an unauthorised person for the information matter.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) However, the person does not commit an offence against subsection (1) if—
- (a) the person has been given a notice under section 8AK in relation to the information matter; or
 - (b) the disclosure is made for the purpose of making a complaint to a State police officer or the Crime and Corruption Commission.
- (3) A person commits a crime if the person commits an offence against subsection (1) in circumstances where the person—

[s 8AJ]

- (a) intends to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or
 - (iv) seriously prejudice the effective management or resolution of the emergency situation; or
- (b) knows that, or is reckless as to whether, the disclosure of the information matter is likely to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or
 - (iv) seriously prejudice the effective management or resolution of the emergency situation.

Maximum penalty—10 years imprisonment.

8AJ Offence for disclosure recipient to disclose information matter to unauthorised person

- (1) During the period of an emergency situation, a disclosure recipient must not, without reasonable excuse—
 - (a) if the disclosure recipient is an authorised person for an information matter—disclose the information matter to an unauthorised person for the information matter; or
 - (b) if the disclosure recipient is an unauthorised person for an information matter—disclose the information matter to another unauthorised person for the information matter, knowing that, or being reckless as to whether, the person to whom the disclosure is made is an unauthorised person.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) However, the disclosure recipient does not commit an offence against subsection (1) if—
- (a) the disclosure recipient has been given a notice under section 8AK in relation to the information matter; or
 - (b) the disclosure is made for the purpose of making a complaint to a State police officer or the Crime and Corruption Commission.
- (3) Also, the disclosure recipient does not commit an offence against subsection (1)(a) by disclosing to a person of whom an information requirement has been made—
- (a) the fact the information requirement has been made of the person; or
 - (b) the nature of the information sought under the information requirement.
- (4) A disclosure recipient commits a crime if the disclosure recipient commits an offence against subsection (1) in circumstances where the disclosure recipient—
- (a) intends to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or
 - (iv) seriously prejudice the effective management or resolution of the emergency situation; or
 - (b) knows that, or is reckless as to whether, the disclosure of the information matter is likely to—
 - (i) seriously endanger the health or safety of any person; or
 - (ii) cause serious damage to property; or
 - (iii) cause serious pollution of the environment; or
 - (iv) seriously prejudice the effective management or resolution of the emergency situation.

Maximum penalty—10 years imprisonment.

8AK Notice that person released from prohibition on disclosing information matter

- (1) This section applies if, at any time during the period of an emergency situation, the emergency commander reasonably considers it will not prejudice the effective management or resolution of the emergency situation if—
 - (a) a person of whom an information requirement is made discloses an information matter; or
 - (b) a person who is a disclosure recipient discloses an information matter.
- (2) The emergency commander or a police officer acting on the emergency commander's instructions may give the person a written notice stating that the person is no longer prohibited from disclosing the information matter to other persons.

Note—

Section 8AI or 8AJ applies to the person if the person has not been given a notice under this section.

- (3) The written notice may be given to the person—
 - (a) by email, but only if it is sent from a Queensland Police Service email account; or
 - (b) in a written notice making an information requirement of the person; or
 - (c) in another appropriate way.

Subdivision 4 Disclosure notices

8AL Request for disclosure notice to be given

- (1) This section applies to a person who—
 - (a) is either—

- (i) a person of whom an information requirement is made; or
 - (ii) a disclosure recipient; and
 - (b) during the period of an emergency situation, wishes to disclose an information matter to another person; and
 - (c) has not been given a notice under section 8AK in relation to the information matter.
- (2) The person may ask a relevant officer to give a stated person a notice (a *disclosure notice*) authorising the disclosure of the information matter to the stated person for a stated purpose.
- (3) The stated purpose must be—
- (a) for disclosure by a person of whom an information requirement is made—
 - (i) to obtain the help of the other person in order to comply with the information requirement; or
 - (ii) if the information requirement concerns work-related information for the person—to inform the employer, or a manager, of the person that the information requirement has been made of the person; or
 - (iii) to seek legal advice in relation to the information requirement, including about an offence against this division; or
 - (b) for disclosure by a disclosure recipient—
 - (i) to obtain the help of the other person in order to help the person of whom the information requirement is made comply with the information requirement; or
 - (ii) if the information requirement concerns work-related information for the person of whom it is made and the disclosure recipient is a manager of the person—to inform the employer, or a manager, of the disclosure recipient that the

information requirement has been made of the person; or

(iii) to seek legal advice in relation to the information requirement, including about an offence against this division.

(4) In this section—

relevant officer means—

- (a) the emergency commander; or
- (b) a police officer acting on the emergency commander's instructions; or
- (c) if the request under subsection (2) is made by a person of whom an information requirement is made—a police officer mentioned in section 8AF(3), definition *relevant matters*, paragraph (h) whose contact details have been given to the person; or
- (d) if the request under subsection (2) is made by a disclosure recipient who is an authorised person for the information matter—a police officer mentioned in section 8AN(3), definition *relevant matters* paragraph (j) whose contact details have been given to the disclosure recipient.

8AM Obligation to give, or to refuse to give, disclosure notice

- (1) This section applies if a request is made under section 8AL to a relevant officer to give a stated person a disclosure notice.
- (2) The relevant officer must give the stated person a disclosure notice unless the officer reasonably suspects that giving the notice might prejudice the effective management or resolution of the emergency situation.
- (3) The disclosure notice may be given in writing or orally.
- (4) The giving of the disclosure notice does not affect the time by which the person of whom the information requirement is made must comply with the information requirement.

Example—

An information requirement is made of a person and, under section 8AE(5)(a)(i), requires the person to give the information immediately. The person asks for a disclosure notice to be given to the person's lawyer to seek legal advice in relation to the information requirement. The obligation under subsection (2) for the relevant officer to give the person's lawyer a disclosure notice does not affect the person's obligation under section 8AG to comply with the information requirement by giving the information immediately.

- (5) If the relevant officer reasonably suspects that giving the stated person a disclosure notice might prejudice the effective management or resolution of the emergency situation, the officer must decide to refuse the request.

8AN Person to be informed of relevant matters

- (1) If a disclosure notice is given in writing, the notice must state the relevant matters.
- (2) If a disclosure notice is given orally, the relevant officer must, when giving the notice, tell the person to whom it is given the relevant matters.
- (3) In this section—

relevant matters, in relation to a disclosure notice given to a person (the *stated person*), means each of the following—

- (a) an emergency situation has been declared to exist;
- (b) an information requirement has been made of the person mentioned in section 8AL(1)(a)(i);
- (c) it is an offence for the person of whom the information requirement is made not to comply with the information requirement unless the person has a reasonable excuse;
- (d) it is an offence for the person of whom the information requirement is made to give information the person knows is false or misleading in a material particular unless, when giving information in a document, the person—

- (i) tells the police officer to whom the information is given, to the best of the person's ability, how the document is false or misleading; and
 - (ii) if the person has, or can reasonably obtain, the correct information—gives the correct information;
- (e) it is an offence for the person of whom the information requirement is made to disclose an information matter to an unauthorised person for the information matter unless the person has a reasonable excuse;
- (f) the person of whom the information requirement is made, or a disclosure recipient, has been authorised to disclose an information matter to the stated person for the purpose of—
 - (i) either—
 - (A) for disclosure by the person of whom the information requirement is made—obtaining the help of the stated person in order to comply with the information requirement; or
 - (B) for disclosure by a disclosure recipient—obtaining the help of the stated person in order to help the person of whom the information requirement is made comply with the information requirement; or
 - (ii) informing the stated person, as the employer, or a manager, of the person of whom the information requirement is made, or of the disclosure recipient, that the information requirement has been made and concerns work-related information for the person of whom it is made; or
 - (iii) seeking legal advice in relation to the information requirement, including about an offence against this division;
- (g) it is an offence for the stated person to disclose the information matter to an unauthorised person for the

information matter unless the stated person has a reasonable excuse;

- (h) the maximum penalty for disclosing the information matter to an unauthorised person for the information matter, with and without a circumstance of aggravation;
- (i) the name, rank, registered number and station of the police officer giving the disclosure notice;
- (j) the contact details of a police officer who may be contacted about the information requirement or disclosure notice;

Examples of a police officer who may be contacted about the information requirement or disclosure notice—

- a stated police officer
 - a police officer performing a stated function
- (k) if the stated person wishes to disclose the information matter to another person, the stated person may ask the emergency commander, the police officer giving the disclosure notice or the police officer mentioned in paragraph (j) to give the other person a disclosure notice authorising the disclosure of the information matter to the other person for a stated purpose;
 - (l) a police officer may give the stated person a written notice under section 8AK, including by email from a Queensland Police Service email account, stating that the person is no longer prohibited from disclosing the information matter to other persons;
 - (m) if, during the period of the emergency situation, the person is not given a notice mentioned in paragraph (l), a police officer will inform the stated person when the emergency situation has ended.

8AO Procedure if disclosure notice is given

- (1) If a disclosure notice is given under section 8AM(2), the relevant officer must—

[s 8AP]

- (a) if the notice is given in writing—give a copy of the notice to the person who requested the giving of the notice; or
 - (b) if the notice is given orally—tell the person who requested the giving of the notice that the notice has been given.
- (2) Also, the relevant officer must, as soon as reasonably practicable after the disclosure notice is given, make a written record under subsection (3) or (4).
- (3) If the disclosure notice is given in writing, the written record must state—
- (a) the date and time the notice is given; and
 - (b) the date and time a copy of the notice is given to the person who requested the giving of the notice.
- (4) If the disclosure notice is given orally, the written record must state—
- (a) the name of the person to whom the notice is given; and
 - (b) the date and time the notice is given; and
 - (c) the date and time the person who requested the giving of the notice is told the notice has been given.

8AP Procedure if disclosure notice is refused

- (1) This section applies if a relevant officer decides under section 8AM(5) to refuse a person's request to give a stated person a disclosure notice.
- (2) As soon as reasonably practicable after making the decision, the relevant officer must—
- (a) inform the person who made the request that—
 - (i) the request is refused; and
 - (ii) if the stated purpose of the request was a purpose mentioned in section 8AL(3)(a)(iii) or (b)(iii)—the person may ask that a disclosure notice authorising

the disclosure of the information matter be given to another stated person for that purpose; and

- (b) make a written record of—
 - (i) the decision to refuse the request; and
 - (ii) the date and time of the decision; and
 - (iii) the grounds forming the basis of the suspicion mentioned in section 8AM(5).
- (3) The information required to be given under subsection (2)(a) may be given orally or in writing.

Subdivision 5 Other matters

8AQ Protection from liability for giving information

- (1) This section applies to a person who, acting honestly and without negligence, gives information under an information requirement that is made of the person.
- (2) This section also applies to a person if—
 - (a) the person, acting honestly and without negligence, gives information to—
 - (i) a person of whom an information requirement is made to help the person comply with the requirement; or
 - (ii) a disclosure recipient to help the disclosure recipient help a person of whom an information requirement is made comply with the requirement; and
 - (b) when the information is given—
 - (i) the person is an authorised person for an information matter relating to the person of whom the information requirement is made; or
 - (ii) the person to whom the information is given has been given a notice under section 8AK.

[s 8AR]

- (3) The person is not liable, civilly, criminally or under an administrative process, for giving the information.
- (4) Also, merely because the person gives the information, the person can not be held to have—
 - (a) breached any code of professional etiquette or ethics; or
 - (b) departed from accepted standards of professional conduct.
- (5) Without limiting subsections (3) and (4)—
 - (a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the information; and
 - (b) if the person would otherwise be required to maintain confidentiality about the information under an Act, oath or rule of law or practice, the person—
 - (i) does not contravene the Act, oath or rule of law or practice by giving the information; and
 - (ii) is not liable to disciplinary action for giving the information.

8AR Persons to be informed that emergency situation has ended

- (1) As soon as practicable after the declaration of an emergency situation ends, the emergency commander must ensure each relevant person is informed that—
 - (a) the emergency situation has ended; and
 - (b) the relevant person is no longer prohibited from disclosing an information matter to other persons.
- (2) Subsection (1) does not apply if, during the period of the emergency situation, the relevant person has been given a notice under section 8AK.
- (3) In this section—

relevant person means—

- (a) a person of whom an information requirement was made during the period of the emergency situation; or
- (b) a person to whom a disclosure notice was given during the period of the emergency situation.

Division 4 Extraordinary emergency powers

Subdivision 1 Authorising exercise of extraordinary emergency powers

8AS Power to authorise exercise of extraordinary emergency powers

- (1) This section applies if—
 - (a) an emergency situation has, under section 5, been declared to exist in respect of a specified area; and
 - (b) a terrorist emergency has not, under section 8G, been declared to exist in relation to the emergency situation; and
 - (c) the emergency commander is satisfied on reasonable grounds that the emergency situation involves or may involve—
 - (i) an explosive; or
 - (ii) a person's life or safety being seriously endangered by an act of another person; and

Examples for subparagraph (ii)—

 - the person is being held hostage by the other person
 - the other person has a weapon and is close to or has access to the person
 - (d) the emergency commander is satisfied on reasonable grounds that the exercise of 1 or more particular extraordinary emergency powers is necessary to effectively deal with the emergency situation because of the scale or complexity of the situation.

[s 8AT]

Examples of complex emergency situations—

- 1 A number of people have been wounded by a weapon in a crowded public place and it is not known who used the weapon.
 - 2 An explosion has occurred inside a public building and there are reports that further explosives have been placed at the main exits from the building.
- (2) The emergency commander may authorise the exercise, under this subdivision, of stated extraordinary emergency powers in a stated area (the **authorisation area**) within the area specified for the emergency situation.
 - (3) The exercise of the stated extraordinary emergency powers is subject to section 8AZ.
 - (4) The authorisation area must be the smallest area reasonably necessary to effectively deal with the emergency situation.
 - (5) Without limiting subsection (2), an authorisation area may be any description of area surrounding a moving activity.

Examples—

- an area within a stated distance of a stated moving motor vehicle or vessel
- an area within a stated distance of a stated person who is on foot, in a moving motor vehicle or vessel or moving in another way

8AT Steps after giving extraordinary emergency authorisation

As soon as reasonably practicable after giving an extraordinary emergency authorisation for an emergency situation, the emergency commander must—

- (a) ensure that a State police officer of at least the rank of assistant commissioner is informed that the authorisation has been given; and
- (b) note the following matters on the emergency situation certificate for the emergency situation—
 - (i) that the authorisation has been given;
 - (ii) the date and time the authorisation was given;

- (iii) the authorisation area;
- (iv) the extraordinary emergency powers that may be exercised;
- (v) the circumstances relevant to the giving of the authorisation.

8AU Changes to extraordinary emergency authorisation

The emergency commander may, at any time, change the authorisation area, or the circumstances relevant to the giving of the extraordinary emergency authorisation, by—

- (a) amending the description of the area or circumstances on the emergency situation certificate; and
- (b) noting the date and time of the amendment on the emergency situation certificate.

8AV When extraordinary emergency authorisation ends

An extraordinary emergency authorisation for an emergency situation ends when the first of the following happens—

- (a) the authorisation is revoked by the emergency commander;
- (b) the declaration made under section 5 for the emergency situation is revoked;
- (c) a declaration is made under section 8G that a terrorist emergency exists in relation to the emergency situation.

8AW When extraordinary emergency authorisation must be revoked

- (1) The emergency commander must revoke an extraordinary emergency authorisation for an emergency situation if satisfied that the exercise of each of the extraordinary emergency powers stated in the authorisation is no longer necessary to effectively deal with the emergency situation.

[s 8AX]

- (2) If the emergency commander revokes the extraordinary emergency authorisation, the emergency commander must as soon as reasonably practicable—
 - (a) note the date and time of the revocation on the emergency situation certificate for the emergency situation; and
 - (b) inform police officers of the revocation.

8AX Effect if extraordinary emergency authorisation ends because of terrorist emergency

- (1) This section applies if an extraordinary emergency authorisation for an emergency situation ends under section 8AV(c) because a terrorist emergency has been declared to exist for the emergency situation.
- (2) A direction given, or requirement made, in relation to the emergency situation and mentioned in column 1 of the following table continues in effect for the terrorist emergency as if—
 - (a) the direction were given, or the requirement were made, by a terrorist emergency officer in relation to the terrorist emergency under the section mentioned opposite in column 2 of the following table; and
 - (b) the declared area for the terrorist emergency includes the authorisation area, if it does not already do so.

Column 1 Direction or requirement	Column 2 Section
a direction given under section 8AZA(2)	section 8M(2)
a requirement made under section 8AZC(2)	section 8O(1)
a requirement made under section 8AZC(3)	section 8O(2)

Column 1
Direction or requirement

Column 2
Section

a requirement made under section 8AZE(2)

section 8PAB(2)

- (3) Subsection (4) applies if—
 - (a) an emergency situation officer is exercising a power under section 8AZB(2) in relation to a person when the terrorist emergency is declared to exist; and
 - (b) the declared area for the terrorist emergency does not include the authorisation area.
- (4) The emergency situation officer may—
 - (a) continue to exercise the power; and
 - (b) if the extraordinary emergency authorisation authorises the exercise of a power under section 8AZB(3) or 8AZE(2) or (6)—exercise the power in relation to the person as if the extraordinary emergency authorisation were still in effect.
- (5) A thing seized under section 8AZB(3) in relation to the emergency situation is taken to have been seized under section 8N(3) in relation to the terrorist emergency.
- (6) A thing seized under section 8AZE(6) in relation to the emergency situation is taken to have been seized under section 8PAB(6) in relation to the terrorist emergency.
- (7) A person's biometric information taken and kept under section 8AZD in relation to the emergency situation is taken to have been taken and kept under section 8PAA in relation to the terrorist emergency.

Subdivision 2 Exercise of extraordinary emergency powers

8AY Application of subdivision

This subdivision applies if an extraordinary emergency authorisation is in effect for an emergency situation.

8AZ Grounds for exercise of power

- (1) An emergency situation officer may exercise an extraordinary emergency power stated in the extraordinary emergency authorisation only if—
 - (a) for a power under section 8AZA(2)—the officer is satisfied that giving a person a direction under that section is necessary—
 - (i) for the safety of the person or another person; or
 - (ii) to effectively manage the evacuation of the person;
or
 - (iii) to effectively receive, identify or assess the person;
or
 - (iv) otherwise, to effectively deal with the emergency situation; or
 - (b) for a power under a section other than section 8AZA(2)—the officer is satisfied the exercise of the power is necessary to effectively deal with the emergency situation.
- (2) An emergency situation officer exercising an extraordinary emergency power may use the force that is reasonably necessary.

8AZA Power to control movement of persons

- (1) This section applies to a person who is in the authorisation area.

- (2) An emergency situation officer may direct the person—
 - (a) not to enter a stated place in the authorisation area; or
 - (b) to go to, or stay at or in, a stated place in the authorisation area.
- (3) When an emergency situation officer is satisfied a direction given under subsection (2) is no longer reasonably necessary for a purpose mentioned in section 8AZ(1)(a), the officer must ensure the direction is withdrawn.
- (4) A person given a direction under subsection (2) is not, for that reason only, under arrest or in the custody of a police officer for the purposes of the *Police Powers and Responsibilities Act 2000*.
- (5) A direction given under subsection (2) is not an enforcement act under the *Police Powers and Responsibilities Act 2000*.

8AZB Power to search a person without a warrant

- (1) This section applies to a person who is in the authorisation area.
- (2) An emergency situation officer may, without a warrant, stop, detain and search the person, and anything in the person's possession, for anything relevant to the emergency situation.

Examples of things that may be searched—

laptop, mobile phone
- (3) The emergency situation officer may seize all or part of a thing if the officer reasonably suspects—
 - (a) the thing may provide evidence of the commission of an offence; or
 - (b) the person may use the thing to cause harm to the person or another person.
- (4) The *Police Powers and Responsibilities Act 2000*, chapter 20, applies as if anything done under subsection (2) or (3) were done under that Act.

[s 8AZC]

- (5) Nothing done under this section, other than the search mentioned in subsection (6), is an enforcement act under the *Police Powers and Responsibilities Act 2000*.
- (6) A search of a person involving the removal of the person's clothing, other than outer clothing, is an enforcement act under the *Police Powers and Responsibilities Act 2000*.

8AZC Power to require name, address and date of birth

- (1) This section applies to a person who is in the authorisation area.
- (2) An emergency situation officer may require the person to state the person's correct name, address and date of birth.
- (3) Also, an emergency situation officer may require the person to give evidence of the correctness of the stated name, address and date of birth if, in the circumstances, it would be reasonable to expect the person—
 - (a) to be in possession of evidence of the correctness of the stated name, address and date of birth; or
 - (b) to otherwise be able to give the evidence.

8AZD Power to collect biometric information

- (1) This section applies to a person who is in the authorisation area.
- (2) An emergency situation officer may take and keep a photograph of the person for the purpose of identifying the person.
- (3) Subsection (4) applies if—
 - (a) the person has not complied with a requirement under section 8AZC(2); or
 - (b) the person has not given evidence of the correctness of the name, address or date of birth stated by the person; or

- (c) an emergency situation officer reasonably suspects that—
 - (i) the name, address or date of birth stated by the person is false; or
 - (ii) evidence given by the person of the correctness of the name, address or date of birth stated by the person is false.
- (4) An emergency situation officer may, for the purpose of identifying the person or confirming the person's identity—
 - (a) electronically take and keep the person's fingerprints; and
 - (b) use a biometric system to compare the person's biometric information with other biometric information stored in the system.
- (5) Subsection (6) applies if the commissioner is satisfied that a person's biometric information taken under this section—
 - (a) is no longer required for the investigation or prosecution of an offence relating to an emergency; and
 - (b) is no longer required for an inquiry or inquest, or proposed inquiry or inquest, in relation to an emergency, including, for example, a commission of inquiry or an investigation under the *Coroners Act 2003*.
- (6) The commissioner must take reasonable steps to destroy the biometric information, and any data about the biometric information, held by the Queensland Police Service.

8AZE Power to require access information or assistance

- (1) This section applies if—
 - (a) under section 8AZB, a digital device is being searched or has been seized; and
 - (b) an emergency situation officer can gain access to device information from the device only with access information for the device or other assistance; and

[s 8AZF]

- (c) the emergency situation officer reasonably suspects that a person knows, has or is able to provide the access information or assistance.
- (2) The emergency situation officer may require the person to give the officer—
 - (a) the access information for the digital device; or
 - (b) any assistance necessary for the officer to gain access to device information from the device.
- (3) When making the requirement, the emergency situation officer must inform the person that the person must comply with the requirement even though complying might tend to incriminate the person or expose the person to a penalty.
- (4) The person must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—40 penalty units or 1 year's imprisonment.
- (5) It is not a reasonable excuse to fail to comply with the requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.
- (6) If the digital device is being searched under section 8AZB(2) and the person does not comply with the requirement, an emergency situation officer may seize the digital device.
- (7) The *Police Powers and Responsibilities Act 2000*, chapter 20 applies as if anything done under subsection (6) were done under that Act.
- (8) Nothing done under subsection (6) is an enforcement act under the *Police Powers and Responsibilities Act 2000*.

8AZF What power to search or seize a digital device includes

Without limiting sections 8AZB and 8AZE(6), the power under those sections to search or seize a thing that is a digital device includes a power to do any of the following—

- (a) use the device to gain access to device information from the device;
- (b) examine device information from the device to find out whether the information may be relevant to an emergency;
- (c) use another digital device to make a copy of device information from the device, or send the information to another digital device for the purpose of copying the information, if the information may be—
 - (i) relevant to an emergency; or
 - (ii) evidence of an offence;
- (d) use the device to send a copy of device information from the device to a person if—
 - (i) the information may be relevant to an emergency; and
 - (ii) the information is sent to the person for the purpose of managing or resolving the emergency.

Subdivision 3 Reporting

8AZG Report to Minister

- (1) The commissioner must give the Minister a report about the exercise of extraordinary emergency powers under an extraordinary emergency authorisation within 3 months after the authorisation ends.
- (2) The report—
 - (a) must state the following—
 - (i) the nature of the emergency situation for which the extraordinary emergency authorisation was given;
 - (ii) when and why the extraordinary emergency authorisation was given;

- (iii) if the extraordinary emergency authorisation was revoked—when it was revoked;
 - (iv) the extraordinary emergency powers that were exercised and why and how they were exercised;
 - (v) whether or not a terrorist emergency was declared to exist in relation to the emergency situation; and
 - (b) may include anything else the commissioner considers appropriate.
- (3) If a terrorist emergency was declared to exist in relation to the emergency situation, the report may form part of the report about the terrorist emergency under section 8R.

8AZH Tabling of report in Legislative Assembly

- (1) The Minister must table in the Legislative Assembly a report about the exercise of extraordinary emergency powers under an extraordinary emergency authorisation within 6 months after the authorisation ends.
- (2) The report—
- (a) must state the matters mentioned in section 8AZG(2)(a); and
 - (b) may include anything else the Minister considers appropriate.
- (3) However, the report is not required to include information that could reasonably be expected—
- (a) to prejudice the investigation of a contravention or possible contravention of the law; or
 - (b) to enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
 - (c) to endanger a person’s life or physical safety; or
 - (d) to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or

-
- dealing with a contravention or possible contravention of the law; or
- (e) to prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
 - (f) to prejudice national security.
- (4) If a terrorist emergency was declared to exist in relation to the emergency situation for which the extraordinary emergency authorisation was given, the report may form part of the report about the terrorist emergency under section 8S.

Part 2A Terrorist emergency

Division 1 Declaring, extending and ending terrorist emergencies

Subdivision 1 Appointments

8A Appointment of terrorist emergency commander and terrorist emergency forward commander

- (1) This section applies if the commissioner or a deputy commissioner is satisfied on reasonable grounds that—
 - (a) an emergency situation has arisen or is likely to arise; and
 - (b) the emergency situation results from or may result from or may lead to 1 or more terrorist acts at 1 or more places (each a *terrorist emergency site*).
- (2) The commissioner or deputy commissioner must appoint an appropriately qualified police officer to be the terrorist emergency commander.
- (3) Until the commissioner or deputy commissioner appoints a terrorist emergency commander, the commissioner or deputy

[s 8B]

commissioner has all the powers of a terrorist emergency commander.

- (4) Also, for each terrorist emergency site, an appropriately qualified police officer must be appointed as the terrorist emergency forward commander either by the commissioner or deputy commissioner or by the terrorist emergency commander under a delegation under section 8B.

8B Commissioner's or deputy commissioner's power to delegate

The commissioner or the deputy commissioner may delegate the power under section 8A(4) to appoint a terrorist emergency forward commander to the terrorist emergency commander appointed under the section.

8BA Appointment of TERC commander

- (1) This section applies if—
 - (a) a terrorist emergency has been declared under section 8G(1); and
 - (b) the terrorist emergency commander is satisfied on reasonable grounds that it is or may be necessary to establish a terrorist emergency reception centre outside the declared area.
- (2) The terrorist emergency commander may appoint an appropriately qualified police officer to be the TERC commander for the terrorist emergency.

8C Function and powers of terrorist emergency commander

- (1) The terrorist emergency commander is responsible for the overall management and control of all terrorist emergencies declared for the emergency situation for which the commander was appointed.
- (2) The terrorist emergency commander may give directions to—

- (a) a terrorist emergency forward commander about the performance of functions and the exercise of powers under this Act by the terrorist emergency forward commander; or
 - (b) a TERC commander about the performance of functions and the exercise of powers under this Act by the TERC commander.
- (3) The terrorist emergency forward commander or TERC commander must comply with the directions and is generally subject to the management and control of the terrorist emergency commander.
- (4) The terrorist emergency commander has all the powers of a terrorist emergency forward commander and a TERC commander and, for that purpose—
- (a) a reference in this Act to a terrorist emergency forward commander includes a reference to the terrorist emergency commander; and
 - (b) a reference in this Act to a TERC commander includes a reference to the terrorist emergency commander.
- (5) Subsections (2) and (4) do not limit other powers of the terrorist emergency commander.

8D Terrorist emergency commander's power to delegate

- (1) This section only applies for any period for which the terrorist emergency commander is not acting as the commander.
- (2) The terrorist emergency commander may delegate the commander's functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- (3) In this section—
functions includes powers.

8E Function and powers of terrorist emergency forward commander

- (1) The terrorist emergency forward commander appointed for a terrorist emergency site is the police forward commander for, and responsible for the management and control of—
 - (a) the terrorist emergency site and on-site investigation; and
 - (b) if a terrorist emergency is declared under section 8G—the terrorist emergency.
- (2) The terrorist emergency forward commander has, for the commander's function in relation to a terrorist emergency, the powers that an emergency commander has for an emergency situation under section 7A and part 2, divisions 2 and 3.
- (3) For subsection (2), in section 7A and part 2, divisions 2 and 3—
 - (a) a reference to the emergency situation certificate includes a reference to the terrorist emergency certificate; and
 - (b) a reference to an emergency situation includes a reference to a terrorist emergency; and
 - (c) a reference to the emergency commander includes a reference to the terrorist emergency forward commander.
- (4) For the purpose of the powers of a police officer acting on the terrorist emergency forward commander's instructions, a reference in part 2, division 2 or 3 to a police officer acting on the emergency commander's instructions includes a reference to a police officer acting on the terrorist emergency forward commander's instructions.
- (5) Subsections (2) to (4) do not limit other powers of the terrorist emergency forward commander or of a police officer acting on the commander's instructions.
- (6) However, powers conferred by this section are subject to section 8L.

8F Terrorist emergency forward commander's power to delegate

- (1) This section only applies for any period for which the terrorist emergency forward commander is not acting as commander.
- (2) The commander may delegate the commander's functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- (3) The power to delegate does not include the power to delegate the function to issue a terrorist emergency certificate or make a note on a certificate under section 8G(4) or 8J(2).
- (4) For each delegation, the terrorist forward commander must attach to the terrorist emergency certificate a copy of each written instrument mentioned in the *Acts Interpretation Act 1954*, section 27A(3) and a statement outlining any revocation of the delegation.
- (5) Without limiting the *Acts Interpretation Act 1954*, section 27A, if a delegation is in force at the end of the terrorist emergency, the delegation ends.
- (6) In this section—
functions includes powers.

8FA Function and powers of TERC commander

- (1) The TERC commander appointed for a terrorist emergency is responsible for—
 - (a) the management and control of each declared evacuation area declared by the TERC commander under section 8GA; and
 - (b) if a terrorist emergency reception centre is established in a declared evacuation area—the reception, identification and assessment of persons at the centre.
- (2) The TERC commander has, for the commander's function in relation to a terrorist emergency, the powers an emergency commander has for an emergency situation under section 7A and part 2, divisions 2 and 3.

- (3) For subsection (2), in section 7A and part 2, divisions 2 and 3—
 - (a) a reference to the emergency situation certificate includes a reference to the terrorist emergency evacuation certificate; and
 - (b) a reference to an emergency situation includes a reference to a terrorist emergency; and
 - (c) a reference to the emergency commander includes a reference to the TERC commander.
- (4) For the purpose of the powers of a police officer acting on the TERC commander's instructions, a reference in part 2, division 2 or 3 to a police officer acting on the emergency commander's instructions includes a reference to a police officer acting on the TERC commander's instructions.
- (5) Subsections (2) to (4) do not limit other powers of the TERC commander or of a police officer acting on the TERC commander's instructions.
- (6) However, the powers conferred under this section are subject to section 8PB.

8FB TERC commander's power to delegate

- (1) This section applies only for a period for which the TERC commander is not acting as the TERC commander.
- (2) The TERC commander may delegate the commander's functions under this Act, including the power to subdelegate functions, to an appropriately qualified police officer.
- (3) The power to delegate does not include the power to delegate the function to issue a terrorist emergency evacuation certificate under section 8GA(4).
- (4) For each delegation, the TERC commander must attach to the terrorist emergency evacuation certificate a copy of a written instrument mentioned in the *Acts Interpretation Act 1954*, section 27A(3) and a statement outlining any revocation of the delegation.

-
- (5) Without limiting the *Acts Interpretation Act 1954*, section 27A, if a delegation is in force at the end of the terrorist emergency, the delegation ends.
 - (6) In this section—
functions includes powers.

Subdivision 2 **Declarations**

8G Terrorist emergency may be declared

- (1) If a terrorist emergency forward commander appointed for a terrorist emergency site is satisfied on reasonable grounds that the terrorist emergency powers are necessary to manage and control the site and circumstances relating to the site, the commander may declare that a terrorist emergency exists for a stated area (the ***declared area***) that includes the site.
- (2) The stated area must be the smallest area reasonably necessary to effectively deal with the terrorist emergency.
- (3) Without limiting subsection (1), a declared area may be any description of area surrounding a moving activity.

Examples—

- an area within a stated distance of a stated moving motor vehicle or vessel
 - an area within a stated distance of a stated person who is on foot, in a moving motor vehicle or vessel or moving in another way
- (4) As soon as practicable after making the declaration, the terrorist emergency forward commander, must issue a certificate (a ***terrorist emergency certificate***) signed by the commander stating—
 - (a) that a terrorist emergency has been declared; and
 - (b) the nature of the terrorist emergency; and
 - (c) the date and time the terrorist emergency was declared; and
 - (d) the declared area.

[s 8GA]

- (5) The terrorist emergency forward commander may at any time change the nature of the terrorist emergency or the declared area by—
 - (a) amending their description on the terrorist emergency certificate; and
 - (b) noting the date and time of the amendment on the terrorist emergency certificate.
- (6) The commissioner must immediately inform the Minister of the declaration of the terrorist emergency or of a significant change made under subsection (5).
- (7) If after reasonable efforts, the Minister can not be contacted, the commissioner must immediately inform the Premier of the declaration or change.
- (8) If neither the Minister nor the Premier can be contacted, the commissioner must immediately inform the next most senior Minister who is available of the declaration or change.
- (9) Unless any of the following happens, the declaration ends 7 days after the declaration is made—
 - (a) the terrorist emergency forward commander, the Minister or the Premier ends the declaration sooner;
 - (b) the Minister and the Premier extend the period of the declaration under section 8H;
 - (c) a regulation made under section 8HA extends the period of the declaration.

8GA Evacuation areas may be declared

- (1) This section applies if, during the period of a terrorist emergency, the TERC commander appointed for the emergency is satisfied on reasonable grounds that the terrorist emergency powers are necessary to manage and control—
 - (a) the evacuation of persons from a declared area; or

-
- (b) the reception, identification and assessment of persons at a terrorist emergency reception centre established outside a declared area.
- (2) The TERC commander may declare 1 or more of the following (each a ***declared evacuation area***) for the terrorist emergency—
- (a) a stated area, outside a declared area, in which a terrorist emergency reception centre has been, or is to be, established for the terrorist emergency;
- (b) if persons evacuate from a declared area to a place other than the terrorist emergency reception centre—a stated area, outside the declared area, that includes the place to which the persons evacuate;
- (c) a stated area that includes the route for the evacuation of persons from a declared area, or a declared evacuation area mentioned in paragraph (b), to the terrorist emergency reception centre;
- (d) a vehicle used to transport persons from a declared area, or a declared evacuation area mentioned in paragraph (b), to the terrorist emergency reception centre and a stated area surrounding the vehicle.

Examples—

- a bus with a stated registration number and an area within a stated distance of the bus
 - a stated vessel and an area within a stated distance of the vessel
- (3) A stated area for subsection (2)(a) to (d) must be the smallest area reasonably necessary to effectively manage—
- (a) the evacuation of persons from a declared area or declared evacuation area; or
- (b) the reception, identification and assessment of persons at the terrorist emergency reception centre or other place to which the persons evacuate.
- (4) As soon as practicable after making a declaration under subsection (2), the TERC commander must issue a certificate

- (a *terrorist emergency evacuation certificate*) signed by the commander stating—
- (a) each declared evacuation area; and
 - (b) the date and time the declaration was made.
- (5) The TERC commander may at any time change a declared evacuation area by—
- (a) amending its description on the terrorist emergency evacuation certificate; and
 - (b) noting the date and time of the amendment on the terrorist emergency evacuation certificate.
- (6) Unless the TERC commander ends a declaration made under subsection (2) sooner, the declaration ends when the declaration of the terrorist emergency ends.
- (7) In this section—
vehicle includes vessel, aircraft or railway rolling stock.

8H Extension of terrorist emergency beyond 7 days

- (1) This section applies if the Minister and the Premier are satisfied, in relation to a terrorist emergency, that it is necessary for police officers to continue to exercise terrorist emergency powers beyond the current period of the terrorist emergency to protect—
 - (a) life or health at serious risk; or
 - (b) critical infrastructure.
- (2) Before the current period of the terrorist emergency ends, the Minister and the Premier may extend the period of the terrorist emergency by 1 or more periods of not more than 7 days each.
- (3) However, an extension may not be made under subsection (2) if the total period of the terrorist emergency, including the extension and each other extension already made under this section or section 8HA, would be more than 28 days.

8HA Extension of terrorist emergency beyond 28 days

- (1) A regulation may extend, or further extend, the period of a terrorist emergency.
- (2) A regulation made under this section commences on the day it is made whether or not it is notified on that day.
- (3) Also, a regulation made under this section—
 - (a) must state the period, of not more than 14 days, by which the terrorist emergency is extended; and
 - (b) expires at the end of the stated period unless it is sooner repealed or expires under section 8I(3).
- (4) Subsection (2) applies despite the *Statutory Instruments Act 1992*, section 32.

8I Relevant person must end terrorist emergency in particular circumstances

- (1) A relevant person must end the terrorist emergency as soon as the relevant person is satisfied it is no longer necessary for police officers to continue to exercise terrorist emergency powers to protect—
 - (a) life or health at serious risk; or
 - (b) critical infrastructure.
- (2) If a relevant person ends a terrorist emergency, the terrorist emergency forward commander must as soon as practicable—
 - (a) inform police officers of the ending; and
 - (b) notify the date and time of the ending by gazette notice; and
 - (c) comply with section 8J.
- (3) A regulation made under section 8HA expires when the terrorist emergency ends.
- (4) In this section—

relevant person means the terrorist emergency commander, the Minister or the Premier.

8J Dealing with certificates at end of terrorist emergency

- (1) This section applies when a terrorist emergency ends.
- (2) The terrorist emergency forward commander must note the date and time of the ending on the terrorist emergency certificate.
- (3) The commissioner must keep the terrorist emergency certificate and any terrorist emergency evacuation certificate for at least 6 years after the ending of the terrorist emergency.

Division 2 Exercise of powers

Subdivision 1 Terrorist emergency officer powers for declared areas

8K Definition for sdiv 1

In this subdivision—

terrorist emergency officer means—

- (a) the terrorist emergency forward commander; or
- (b) a police officer acting on the instructions of the terrorist emergency forward commander.

8L Grounds for exercise of power

- (1) A terrorist emergency officer may exercise a terrorist emergency power under section 8M only if the officer is satisfied that giving a person a direction under that section is necessary—
 - (a) for the safety of the person or another person; or
 - (b) to effectively manage the evacuation of the person to a declared evacuation area; or
 - (c) to effectively receive, identify or assess the person; or

- (d) otherwise to effectively deal with the terrorist emergency.
- (2) A terrorist emergency officer may exercise a terrorist emergency power under a section other than section 8M only if the officer is satisfied the exercise of the power is necessary to effectively deal with the terrorist emergency.
- (3) Also, a terrorist emergency officer may exercise a terrorist emergency power only during the period of the terrorist emergency.
- (4) A terrorist emergency officer exercising a terrorist emergency power may use the force that is reasonably necessary.

8M Power to control movement of persons

- (1) This section applies to a person—
 - (a) who is in a declared area; or
 - (b) who a terrorist emergency officer reasonably suspects is about to enter a declared area.
- (2) A terrorist emergency officer may direct the person—
 - (a) not to enter the declared area or a stated place in the declared area; or
 - (b) to go to, or stay at or in, a stated place in the declared area; or
 - (c) to go to, and stay at or in, a stated declared evacuation area.
- (3) When the relevant commander is satisfied a direction given under subsection (2) is no longer reasonably necessary for a purpose mentioned in section 8L(1), the commander must ensure the direction is withdrawn.
- (4) A person given 1 or more directions under subsection (2) is not, for that reason only, under arrest or in the custody of a police officer for the purposes of the *Police Powers and Responsibilities Act 2000*.

- (5) A direction given under subsection (2) is not an enforcement act for the purposes of the *Police Powers and Responsibilities Act 2000*.
- (6) In this section—
relevant commander means—
 - (a) for a direction given under subsection (2)(a) or (b)—the terrorist emergency forward commander; or
 - (b) for a direction given under subsection (2)(c)—the TERC commander.

8N Power to search a person without a warrant

- (1) This section applies to a person—
 - (a) who is in the declared area for a terrorist emergency; or
 - (b) who is about to enter the declared area for a terrorist emergency; or
 - (c) who a terrorist emergency officer reasonably suspects has recently left the declared area for a terrorist emergency.
- (2) A terrorist emergency officer may, without a warrant, stop, detain and search the person, and anything in the person's possession, for anything relevant to the terrorist emergency.
Examples of things that may be searched—
laptop, mobile phone
- (3) The terrorist emergency officer may seize all or part of a thing if the officer reasonably suspects—
 - (a) the thing may provide evidence of the commission of an offence; or
 - (b) the person may use the thing to cause harm to the person or someone else.
- (4) The *Police Powers and Responsibilities Act 2000*, chapter 20, applies as if anything done under subsection (2) or (3) were done under that Act.

- (5) Nothing done under this section, other than the search mentioned in subsection (6), is an enforcement act under the *Police Powers and Responsibilities Act 2000*.
- (6) A search of a person involving the removal of the person's clothing, other than outer clothing, is an enforcement act under the *Police Powers and Responsibilities Act 2000*.

8O Power to require name, address and date of birth

- (1) A terrorist emergency officer may require a person to state the person's correct name, address and date of birth if the person is about to enter, is in or if the terrorist emergency officer reasonably suspects the person has recently left, a declared area for the terrorist emergency.
- (2) Also, the terrorist emergency officer may require the person to give evidence of the correctness of the stated name, address and date of birth if, in the circumstances, it would be reasonable to expect the person to be in possession of evidence of the correctness of the stated name, address and date of birth or to otherwise be able to give the evidence.

8P Power to search vehicle without warrant

- (1) A terrorist emergency officer may, without a warrant, do any of the following if a vehicle is about to enter or is in, or the officer reasonably suspects the vehicle has recently left, a declared area for the terrorist emergency—
 - (a) stop the vehicle;
 - (b) detain the vehicle and the occupants of the vehicle;
 - (c) search the vehicle and anything in it for anything relevant to the terrorist emergency.
- (2) The terrorist emergency officer may seize all or part of a thing if the officer reasonably suspects—
 - (a) the thing may provide evidence of the commission of an offence; or

- (b) a person may use the thing to cause harm to the person or someone else.
- (3) The *Police Powers and Responsibilities Act 2000*, chapter 20 applies as if anything done under subsection (1) or (2) were done under that Act.
- (4) Nothing done under this section is an enforcement act under the *Police Powers and Responsibilities Act 2000*.
- (5) In this section—
vehicle includes vessel, aircraft or railway rolling stock.

8PAA Power to collect biometric information

- (1) This section applies to a person—
 - (a) who is in the declared area for a terrorist emergency; or
 - (b) who is about to enter the declared area for a terrorist emergency; or
 - (c) who a terrorist emergency officer reasonably suspects has recently left the declared area for a terrorist emergency.
- (2) A terrorist emergency officer may take and keep a photograph of the person for the purpose of identifying the person.
- (3) Subsection (4) applies if—
 - (a) the person has not complied with a requirement under section 8O(1); or
 - (b) the person has not given evidence of the correctness of the name, address or date of birth stated by the person; or
 - (c) a terrorist emergency officer reasonably suspects that—
 - (i) the name, address or date of birth stated by the person is false; or
 - (ii) evidence given by the person of the correctness of the name, address or date of birth stated by the person is false.

- (4) A terrorist emergency officer may, for the purpose of identifying the person or confirming the person's identity—
 - (a) electronically take and keep the person's fingerprints; and
 - (b) use a biometric system to compare the person's biometric information with other biometric information stored in the system.
- (5) Subsection (6) applies if the commissioner is satisfied a person's biometric information taken under this section—
 - (a) is no longer required for the investigation or prosecution of an offence relating to an emergency; and
 - (b) is no longer required for an inquiry or inquest, or proposed inquiry or inquest, in relation to an emergency, including, for example, a commission of inquiry or an investigation under the *Coroners Act 2003*.
- (6) The commissioner must take reasonable steps to destroy the biometric information, and any data about the biometric information, held by the Queensland Police Service.

8PAB Power to require access information or assistance

- (1) This section applies if—
 - (a) under section 8N or 8P, a digital device is being searched or has been seized; and
 - (b) a terrorist emergency officer can gain access to device information from the device only with access information for the device or other assistance; and
 - (c) the terrorist emergency officer reasonably suspects that a person knows, has or is able to provide the access information or assistance.
- (2) The terrorist emergency officer may require the person to give the officer—
 - (a) the access information for the digital device; or

- (b) any assistance necessary for the officer to gain access to device information from the device.
- (3) When making the requirement, the terrorist emergency officer must inform the person that the person must comply with the requirement even though complying might tend to incriminate the person or expose the person to a penalty.
- (4) The person must comply with the requirement unless the person has a reasonable excuse.
Maximum penalty—40 penalty units or 1 year's imprisonment.
- (5) It is not a reasonable excuse to fail to comply with the requirement on the basis that complying with the requirement might tend to incriminate the person or expose the person to a penalty.
- (6) If the digital device is being searched under section 8N(2) or 8P(1)(c) and the person does not comply with the requirement, a terrorist emergency officer may seize the device.
- (7) The *Police Powers and Responsibilities Act 2000*, chapter 20 applies as if anything done under subsection (6) were done under that Act.
- (8) Nothing done under subsection (6) is an enforcement act under the *Police Powers and Responsibilities Act 2000*.

8PAC What power to search or seize a digital device includes

Without limiting sections 8N, 8P and 8PAB(6), the power under those sections to search or seize a thing that is a digital device includes a power to do any of the following—

- (a) use the device to gain access to device information from the device;
- (b) examine device information from the device to find out whether the information may be relevant to an emergency;

- (c) use another digital device to make a copy of device information from the device, or send the information to another digital device for the purpose of copying the information, if the information may be—
 - (i) relevant to an emergency; or
 - (ii) evidence of an offence;
- (d) use the device to send a copy of device information from the device to a person if—
 - (i) the information may be relevant to an emergency; and
 - (ii) the information is sent to the other person for the purpose of managing or resolving the emergency.

Subdivision 1A Terrorist emergency officer powers for declared evacuation areas

8PA Definition for subdivision

In this subdivision—

terrorist emergency officer means—

- (a) the TERC commander; or
- (b) a police officer acting on the TERC commander's instructions.

8PB Grounds for exercise of power

- (1) A terrorist emergency officer may exercise a terrorist emergency power under section 8PC only if the officer is satisfied that giving a person a direction under that section is necessary—
 - (a) for the safety of the person or another person; or
 - (b) to effectively manage the evacuation of the person to a declared evacuation area; or

- (c) to effectively receive, identify or assess the person; or
 - (d) otherwise to effectively deal with the terrorist emergency.
- (2) A terrorist emergency officer may exercise a terrorist emergency power under a section other than section 8PC only if the officer is satisfied the exercise of the power is necessary to effectively deal with the terrorist emergency.
 - (3) Also, a terrorist emergency officer may exercise a terrorist emergency power only during the period of the terrorist emergency.
 - (4) A terrorist emergency officer exercising a terrorist emergency power may use the force that is reasonably necessary.

8PC Power to control movement of persons

- (1) This section applies to a person—
 - (a) who is in a declared evacuation area; or
 - (b) who a terrorist emergency officer reasonably suspects is about to enter a declared evacuation area.
- (2) A terrorist emergency officer may direct the person—
 - (a) not to enter the declared evacuation area or a stated place in the declared evacuation area; or
 - (b) to go to, or stay at or in, a stated place in the declared evacuation area; or
 - (c) to go to, and stay at or in, another stated declared evacuation area.
- (3) When the TERC commander is satisfied a direction given under subsection (2) is no longer reasonably necessary for a purpose mentioned in section 8PB(1), the commander must ensure the direction is withdrawn.
- (4) A person given 1 or more directions under subsection (2) is not, for that reason only, under arrest or in the custody of a police officer for the purposes of the *Police Powers and Responsibilities Act 2000*.

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- (5) A direction given under subsection (2) is not an enforcement act under the *Police Powers and Responsibilities Act 2000*.

8PD Application of particular provisions to terrorist emergency officer

Sections 8N to 8PAC apply to a terrorist emergency officer as if—

- (a) a reference in the sections to a terrorist emergency officer were a reference to a terrorist emergency officer under this subdivision; and
- (b) a reference in the sections to a declared area were a reference to a declared evacuation area.

Subdivision 2 Other powers

8Q Power to direct officers of government agencies

- (1) To the extent necessary to manage and control the response of government agencies to a terrorist emergency, the commissioner may direct an officer of a government agency to do or not do an act, or to perform or not perform a function.
- (2) The act or function must be an act or function it is lawful for the officer to do or perform or not do or perform in the ordinary performance of the officer's functions.
- (3) The direction may be given only while the declaration is in effect and only in relation to any or all declared areas or declared evacuation areas stated in the direction.
- (4) The direction may apply to more than 1 terrorist emergency.
- (5) The government agency must be consulted before the direction is given, unless it is not practicable to consult the agency because compliance with the direction—
 - (a) is required urgently; or
 - (b) is necessary for the safety of the officer to whom the direction is given or someone else.

[s 8R]

- (6) The officer is authorised to comply, and must comply, with the direction.
- (7) The direction may be withdrawn by the Premier or the Minister responsible for the agency.
- (8) A direction under subsection (1) may be given generally to officers holding a type of office or exercising a function.
- (9) This section does not limit the powers a terrorist emergency commander or terrorist emergency officer has under this or another Act.

Example of powers that are not limited by this section—

the powers under section 8 to give a person a resource surrender direction, resource operator direction or help direction

- (10) In this section—

function includes a power.

officer includes any employee of the government whether or not the person holds an office.

performance, of a function, includes the exercise of a power.

Division 3 Other provisions

8R Report to Minister

- (1) The commissioner must give the Minister a report about a terrorist emergency within 3 months after the end of the declaration.
- (2) The report—
 - (a) must include—
 - (i) the nature of the terrorist emergency, when and why the emergency was declared, and when it ended; and
 - (ii) if the terrorist emergency declaration was extended, why it was extended; and

- (iii) the terrorist emergency powers relied on and why they were relied on; and
 - (iv) if any terrorist emergency powers were delegated under section 7A, 8F or 8FB, the reason the powers were delegated; and
 - (v) who authorised the exercise of the terrorist emergency powers and how the powers were exercised; and
- (b) may include anything else the commissioner considers appropriate.

8S Tabling of report in Legislative Assembly

- (1) The Minister must table in the Legislative Assembly a report about a terrorist emergency within 6 months after the end of the declaration.
- (2) The report must include all the information described in section 8R(2)(a) and may include anything else the Minister considers appropriate.
- (3) Subsection (2) does not require the report to include information that could reasonably be expected—
 - (a) to prejudice the investigation of a contravention or possible contravention of the law; or
 - (b) to enable the existence or identity of a confidential source of information, in relation to the enforcement or administration of the law, to be ascertained; or
 - (c) to endanger a person's life or physical safety; or
 - (d) to prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of the law; or
 - (e) to prejudice the maintenance or enforcement of a lawful method or procedure for protecting public safety; or
 - (f) to prejudice national security.

8T Review

- (1) This part must be reviewed by the Minister before the end of 5 years after the commencement of this section.
- (2) A report on the outcome of the review must be tabled in the Legislative Assembly within 12 months after the end of the period of 5 years.

Part 3 Chemical, biological and radiological emergencies

Division 1 Preliminary

9 Parliament's intention

It is Parliament's intention that the powers available under this part may be exercised—

- (a) only if—
 - (i) something has happened in which a CBR substance is involved; and
 - (ii) the nature of the particular substance requires the exercise by emergency responders of the powers under this part in addition to powers otherwise available to emergency responders under this or any other Act; and
- (b) only for so long as the exercise of the additional powers in the particular circumstances is necessary to ensure the chemical, biological or radiological substance involved does not pose a serious risk to the life or health of individuals.

11 CBR emergency powers and powers under other Acts

- (1) CBR emergency powers are in addition to and do not limit the powers an emergency responder or a public service officer has under another Act.

Examples of other persons—

- an inspector under the *Explosives Act 1999*
- an authorised person under the *Environmental Protection Act 1994*
- a police officer under the *Police Powers and Responsibilities Act 2000*

- (2) However, the CBRE commander may give directions about the circumstances in which the powers under the other Act may be exercised during the emergency.

- (3) A direction under subsection (2) may be given—

- (a) only to emergency responders or public service officers who may exercise powers under another Act; and
- (b) only if it is necessary for the effective management of the CBR emergency.

Example 1—

The CBRE commander may direct an authorised person under the *Environmental Protection Act 1994* to delay exercising particular powers until the CBRE commander considers it is appropriate in the circumstances for the powers to be exercised.

Example 2—

If the CBR emergency involves an outbreak of an animal disease, the CBRE commander may direct an authorised officer under the *Biosecurity Act 2014* to delay exercising particular powers until the commander considers it is appropriate in the circumstances for the powers to be exercised.

- (4) Also, a direction under subsection (2)—

- (a) may be general or limited to a particular class of emergency responder or public service officer; and
- (b) may be given on conditions.

- (a) a relevant person sooner ends the emergency under section 15;
- (b) the Minister and the Premier extend the period of the emergency.

13 Extension of CBR emergency up to 7 days

- (1) This section applies if the Minister and the Premier are satisfied—
 - (a) a CBR emergency has happened; and
 - (b) it is necessary for emergency responders to continue to exercise CBR emergency powers beyond the first 24 hours (*initial period*) of the emergency to protect life or health at serious risk because of the CBR substance involved in the emergency.
- (2) Before the initial period of the CBR emergency ends, the Minister and the Premier may extend the period of the emergency to a total of not more than 7 days from the start of the initial period.

Note—

For provisions about the exercise of the detention power after the first 48 hours of a CBR emergency, see division 5, subdivision 2.

- (3) If—
 - (a) the period of the CBR emergency as extended under subsection (2) is less than 7 days; and
 - (b) the Minister and the Premier still consider it is necessary for emergency responders to continue to exercise CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the emergency;

the Minister and the Premier may further extend the period of the emergency to a total of up to 7 days from the start of the initial period of the emergency.

[s 14]

- (4) Unless either of the following happens, the CBR emergency ends 7 days after the start of the initial period of the emergency—
 - (a) a relevant person sooner ends the emergency under section 15;
 - (b) a regulation extends the period of the emergency beyond the end of the 7 days.

14 Extension of CBR emergency beyond 7 days

- (1) A regulation may extend, or further extend, the period of a CBR emergency.
- (2) A regulation made for the purposes of this section commences on the day it is made whether or not it is notified on that day.
- (3) Also, a regulation extending the period of a CBR emergency expires 14 days after the start of the initial period of the emergency unless it is sooner repealed or expires under section 15(4).
- (4) In addition, a regulation further extending the period of a CBR emergency must state the period, of not more than 14 days, by which the emergency is extended.
- (5) Subsection (2) applies despite the *Statutory Instruments Act 1992*, section 32.

15 Ending CBR emergency

- (1) As soon as the relevant person is satisfied it is no longer necessary for emergency responders to continue to exercise CBR emergency powers to protect life or health at serious risk because of the CBR substance involved in the CBR emergency, the relevant person must end the emergency.
- (2) The CBRE commander must promptly inform emergency responders of the ending of the CBR emergency.
- (3) The CBRE commander must also notify the ending of the CBR emergency and when it ended by gazette notice as soon as practicable.

-
- (4) A regulation extending or further extending the period of the CBR emergency expires when the emergency ends.
- (5) In this section—
- relevant person* means—
- (a) to end a CBR emergency within 24 hours of its start—
- (i) if a Minister has not been notified under section 12—the CBRE commander; or
- (ii) if a Minister has been notified under section 12—the Minister notified; or
- (b) if the period of the CBR emergency is extended under section 13—the Minister and the Premier.

Division 3 CBRE commander’s coordination responsibility and general powers

Subdivision 1 CBRE commander

16 Meaning of *CBRE commander*

Each of the following is a *CBRE commander*—

- (a) a State police officer who declares a CBR emergency under section 12;
- (b) a State police officer of the rank of at least assistant commissioner who is for the time being performing the functions of the CBRE commander under this part.

17 Coordination responsibility

- (1) On the declaration of a CBR emergency, the CBRE commander is responsible for the overall management and control of emergency responders responding to the emergency.

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- (2) For coordinating the response by emergency responders to the CBR emergency, the CBRE commander may give directions about the circumstances in which powers available to emergency responders only under this Act may be exercised.
- (3) A direction given under subsection (2)—
 - (a) may be general or limited to a particular class of emergency responder; and
 - (b) may be given on conditions.

18 Powers of CBRE commander

- (1) On the declaration of a CBR emergency, the CBRE commander has the following powers—
 - (a) the powers stated in section 23 for the emergency;
 - (b) the powers an emergency commander has in an emergency situation under section 7A or part 2, division 2 or 3;
 - (c) the power under section 19(1) to authorise the exercise of powers available to particular emergency responders only under this part.

Notes—

- 1 Under section 11(2), the CBRE commander may give directions relating to the circumstances in which emergency responders or public service officers may exercise powers under another Act.
 - 2 The CBRE commander also has powers to give directions under section 17(2).
- (2) For subsection (1)(b), a reference in section 7A or part 2, division 2 or 3 to—
 - (a) an emergency commander is taken to be a reference to the CBRE commander; and
 - (b) an emergency situation is taken to be a reference to a CBR emergency.

19 Power to authorise exercise of particular powers

- (1) On the declaration of a CBR emergency, the CBRE commander may authorise any of the following to exercise powers available to emergency responders only under this Act—
 - (a) an ambulance officer;
 - (b) a fire officer;
 - (c) a police officer;
 - (d) a veterinary officer.
- (2) On the declaration of a CBR emergency, the medical controller may—
 - (a) exercise the powers of the medical controller under this part; and
 - (b) authorise a health officer to exercise powers available to the officer only under this part.
- (3) An authorisation under subsection (1) or (2)—
 - (a) may be general or limited to a particular class of emergency responder; and
 - (b) may be given on conditions; and
 - (c) may be given orally or in writing but if given orally must be put in writing as soon as reasonably practicable.
- (4) A failure to put an authorisation in writing under subsection (3)(c) does not invalidate the authorisation or anything done under the authorisation.
- (5) The CBRE commander may delegate the power to authorise an emergency responder, other than a health officer, to exercise powers available to the responder only under this part—
 - (a) for a power available to an ambulance officer—to the ambulance controller; or
 - (b) for a power available to a fire officer—to the fire controller; or

- (c) for a power available to a veterinary officer—to the chief veterinary officer.
- (6) Despite the *Acts Interpretation Act 1954*, section 27A(3), a delegation under subsection (5) may be made orally or in writing.
- (7) However, if made orally, the delegation must be put in writing and a copy given to the delegate as soon as practicable after the delegation is made, but no later than 7 days after the CBR emergency ends.
- (8) A delegation under subsection (5) also authorises the person to whom the power is delegated to exercise the power an emergency responder is authorised by the delegate to exercise.

Example for subsection (8)—

The CBRE commander delegates to the fire controller the power to authorise fire officers to exercise the decontamination power. The fire controller is authorised to exercise the decontamination power.

Subdivision 2 Powers available to emergency responders

20 CBRE ambulance officers

- (1) A CBRE ambulance officer may exercise the following powers—
 - (a) the treatment power;
 - (b) the power to give directions under section 31.
- (2) The CBRE ambulance officer may exercise the relevant power only in accordance with this Act, the terms of the authorisation to exercise the power and subject to the directions of the CBRE commander or the ambulance controller.
- (3) Also, if the CBRE ambulance officer is a non-government ambulance officer, the ambulance officer is subject to the direction of a government ambulance officer.

21 CBRE fire officers

- (1) A CBRE fire officer may exercise the following powers—
 - (a) the decontamination power;
 - (b) the property destruction power;
 - (c) the power to give directions under section 31.
- (2) The CBRE fire officer may exercise the relevant power only in accordance with the terms of this Act, the authorisation to exercise the power and subject to the directions of the CBRE commander or the fire controller.
- (3) Also, if the CBRE fire officer is a non-government fire officer, the fire officer is subject to the direction of a government fire officer.

22 CBRE health officers

- (1) A CBRE health officer may exercise the following powers—
 - (a) the decontamination power;
 - (b) the property destruction power;
 - (c) the treatment power;
 - (d) the power to give directions under section 31.
- (2) The CBRE health officer may exercise the relevant power only in accordance with the terms of this Act, the authorisation to exercise the power and subject to the directions of the CBRE commander or the medical controller.
- (3) Also, if the CBRE health officer is a non-government health officer, the non-government health officer is subject to the direction of a government health officer.

23 CBRE police officers

- (1) A CBRE police officer may exercise the following powers—
 - (a) the detention power;
 - (b) the property seizure power;

- (c) the property destruction power;
 - (d) the identity power;
 - (e) the power to give directions under section 31.
- (2) The CBRE police officer may exercise the relevant power only in accordance with this Act, the terms of the authorisation to exercise the power and subject to the directions of the CBRE commander.
- (3) Also, if the CBRE police officer is a non-State police officer, the police officer is subject to the directions of a State police officer.

24 CBRE veterinary officers

- (1) A CBRE veterinary officer may exercise the following powers—
- (a) the decontamination power;
 - (b) the property destruction power;
 - (c) the power to give directions under section 31.
- (2) The CBRE veterinary officer may exercise the relevant power only in accordance with the terms of the authorisation to exercise the power and subject to the directions of the CBRE commander or the chief veterinary officer.

Division 4 Exercise of powers

25 Power to seize property

- (1) A CBRE police officer may seize property to ensure a CBR substance involved in the CBR emergency is made ineffective.
- (2) For exercising the property seizure power, a CBRE police officer may require a person to leave in a stated place property the person possesses or controls.
- (3) However, the CBRE police officer may require a person to leave property in a stated place only if the CBRE police

officer considers, having regard to the substance involved in the CBR emergency—

- (a) it is reasonably necessary to require the person to leave the property in the place; and
- (b) it is reasonably practicable for the person to leave the property in the place.

26 Power to destroy seized property

- (1) The following emergency responders may destroy seized property to ensure a CBR substance involved in the CBR emergency is made ineffective—
 - (a) a CBRE fire officer;
 - (b) a CBRE health officer;
 - (c) a CBRE police officer;
 - (d) a CBRE veterinary officer.
- (2) However, the emergency responder must not destroy property that may reasonably be decontaminated.
- (3) For seized property other than an animal, an emergency responder other than a CBRE veterinary officer—
 - (a) may destroy property that is affected by a biological or radiological substance only if the medical controller decides the property should be destroyed; and
 - (b) may destroy property that is affected by a chemical substance only if the fire controller decides the property should be destroyed.
- (4) For seized property that is an animal, the CBRE veterinary officer may destroy the animal—
 - (a) only if the chief veterinary officer decides the animal should be destroyed; and
 - (b) whether or not it is lawful under another Act to destroy the animal.

27 Power to require name and address

- (1) A CBRE police officer may require a person to state the person's correct name and address.
- (2) The CBRE police officer may also ask a person in relation to whom the identity power is exercised to state the name and address of the person's next of kin or someone else the person considers should be contacted to enable the CBRE police officer to contact someone to inform that person of the person's whereabouts.
- (3) However, the CBRE police officer may only exercise the identity power in relation to a person if the CBRE police officer considers it is necessary—
 - (a) to record details of—
 - (i) individuals detained; and
 - (ii) property seized from the person; or
 - (b) to enable the CBRE commander to contact the person if necessary because of something relating to the CBR substance involved in the CBR emergency that may put the person's life or health, or the life or health of someone else, at risk.
- (4) For exercising the identity power, the CBRE police officer may require the person to produce documents in the person's possession or control that may help establish the person's identity.

Example of document—

a driver licence

- (5) Information given under this section may be used only for—
 - (a) a purpose mentioned in subsection (3); or
 - (b) a proceeding before the Coroners Court; or
 - (c) an investigation into an offence directly related to the CBR emergency.

Example for paragraph (c)—

an investigation into an offence involving the release of the CBR substance

- (6) This section does not limit the powers a police officer has under the *Police Powers and Responsibilities Act 2000*, section 40.

28 Power to decontaminate

- (1) This section applies if a person or property may be, is, or may have been affected by a CBR substance involved in the CBR emergency.
- (2) If the substance involved in the CBR emergency is a biological or radiological substance—
- (a) a CBRE health officer may take the steps the health officer considers reasonably necessary to decontaminate the person or property; or
 - (b) a CBRE fire officer, with the approval of the medical controller, may take the steps the medical controller or a CBRE health officer considers reasonably necessary to decontaminate the person or property.
- (3) If the substance involved in the CBR emergency is a chemical substance, it is lawful for a CBRE fire officer to take the steps the fire officer considers reasonably necessary to decontaminate the person or property.
- (4) Subsections (2) and (3) do not apply to an animal.
- (5) For subsections (2) and (3), the steps include directing the person to stay at a stated place or to go to a stated place for the purposes of the decontamination.
- (6) It is lawful for a CBRE veterinary officer to take the steps the veterinary officer considers reasonably necessary to decontaminate an animal.

29 Power to medically examine and treat

- (1) This section applies if a person (*relevant person*) may be, is, or may have been affected by a CBR substance involved in the CBR emergency.

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- (2) It is lawful for a CBRE ambulance officer or a CBRE health officer to medically examine the relevant person and provide any reasonably necessary treatment for the person.
- (3) If a person acting under subsection (2)—
 - (a) is not a government doctor, subsection (2) is subject to any direction given by the medical controller or a government doctor; or
 - (b) is a government doctor, subsection (2) is subject to any direction given by the medical controller.
- (4) The power to medically examine a person includes power to take any reasonably necessary samples and perform any reasonably necessary tests for the purpose.
- (5) The power to treat a person includes power to isolate the person for the time reasonably necessary for preventing the spread of a CBR substance involved in the CBR emergency to others not already affected by the substance.

30 Refusal of medical treatment

- (1) This section applies if, after being medically examined, a person is found to require medical treatment because of the effect of the CBR substance involved in the CBR emergency.
- (2) The person may refuse to undergo the treatment.
- (3) However, if the medical controller or a government doctor is satisfied allowing the person to leave without medical treatment will pose a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency, it is lawful for a CBRE ambulance officer or a CBRE health officer to treat the person despite the refusal.

Example—

The person may have been affected by a substance that can not be transmitted from person to person. If the person refuses treatment, allowing the person to leave without being treated would not pose a risk to others and there would be no reason to continue to isolate the person.

- (4) This section does not limit a person's right to refuse medical treatment that is not related to a CBR substance involved in the CBR emergency.

31 Power to give particular directions

- (1) It is lawful for an emergency responder other than a CBRE veterinary officer, for responding to the CBR emergency, to direct a person—
- (a) to go to a stated place; or
 - (b) to stay at or in a stated place; or
 - (c) not to enter a stated place.
- (2) Also, it is lawful for a CBRE veterinary officer, for responding to the CBR emergency, to direct a person—
- (a) to take a stated animal to a stated place; or
 - (b) to leave an animal at or in a stated place.
- (3) A person given a direction under subsection (1) or (2) must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—40 penalty units or 1 year's imprisonment.

Division 5 Provisions about detention

Subdivision 1 Detention powers

32 Power to detain

- (1) The CBRE commander or a CBRE police officer may detain anyone the commander or police officer considers should be detained for a purpose mentioned in subsection (3).

- (2) However, the CBRE commander or the CBRE police officer may detain a person under subsection (1) only for the time reasonably necessary for the purpose.

Example—

A person who requires decontamination may be detained only for the time necessary to ensure the CBR substance no longer poses a risk to the life or health of anyone else.

- (3) The purposes are as follows—
- (a) to ensure a CBR substance involved in the CBR emergency is contained;
 - (b) to ensure a person detained does not pose a serious risk to the life or health of others because of the CBR substance involved in the CBR emergency.
- (4) The power to detain a person under subsection (1) includes—
- (a) power to require the person to go to a stated place or stay at or in a stated place for a purpose mentioned in subsection (3); and
 - (b) power to move the person to a place for a purpose mentioned in subsection (3).
- (5) A person detained under this section is not under arrest or in the custody of a police officer for the purposes of the *Police Powers and Responsibilities Act 2000*.

Subdivision 2 Exercise of detention power after first 48 hours

33 Continued exercise of detention power after 48 hours

The exercise by the CBRE commander or CBRE police officer of the detention power after the end of the first 48 hours of the CBR emergency is lawful only if a Supreme Court judge approves the continued exercise of the power.

34 Application for approval to continue exercising detention power

- (1) This section applies only if the Minister and the Premier are satisfied it is necessary for the CBRE commander to continue to exercise the detention power after the first 48 hours.
- (2) The commissioner may apply to the Supreme Court judge for an order approving the continued exercise of the detention power.
- (3) The application must be made before the first 48 hours of the CBR emergency ends.
- (4) The commissioner must immediately give the monitor notice of the making of the application and a copy of the application.
- (5) The monitor is entitled to be present at the consideration of the application and, for that purpose at the hearing, may—
 - (a) present questions for the applicant to answer and examine or cross-examine any witnesses; and
 - (b) make submissions on the appropriateness in the public interest of granting the application.

35 Consideration of application

- (1) The Supreme Court judge—
 - (a) must decide the application as quickly as possible; and
 - (b) may consider any representations made by the monitor; and
 - (c) may make the orders the judge considers appropriate for deciding the application, including, for example, an order suspending the operation of the decision on the application pending the outcome of an appeal; and
 - (d) may approve or refuse to approve the continued exercise of the detention power.

Examples of orders for paragraph (c)—

- interim orders

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- orders adjourning the application until the commissioner gives the judge additional information
 - orders approving the release of some individuals but continuing the detention of others
- (2) However, the Supreme Court judge may approve the application only if satisfied continued use of the detention power is reasonably necessary to prevent a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency.
- (3) If the Supreme Court judge does not decide the application before the end of the first 48 hours of the CBR emergency, it is lawful for the CBRE commander to continue to exercise the detention power until the application is finally decided.

36 Appeal

- (1) The commissioner may appeal to the Court of Appeal against the refusal of the Supreme Court judge to approve the continued use of the detention power.
- (2) On the filing of an appeal, the decision of the Supreme Court judge is stayed.
- (3) The Court of Appeal—
- (a) must hear and decide the appeal without delay; and
 - (b) may either—
 - (i) approve the continued use of the detention power; or
 - (ii) confirm the decision appealed against and dismiss the appeal; and
 - (c) may make the other orders the court considers appropriate.

Subdivision 3 Other provisions about detention

37 Application of sdiv 3

This subdivision applies only in relation to a person who is detained under this part (*relevant person*).

38 CBRE commander's obligations in relation to relevant person

- (1) The CBRE commander must—
 - (a) as soon as possible having regard to all the circumstances, inform the relevant person—
 - (i) the person may apply to a Supreme Court judge for an order ending the person's detention and how the person may apply; and
 - (ii) of the person's right to consult a lawyer of the person's choice; and
 - (iii) that for the person to be detained beyond the first 48 hours of the CBR emergency, the commissioner must apply to a Supreme Court judge for approval for the CBRE commander to continue to exercise the detention power; and
 - (b) as soon as reasonably practicable inform the relevant person's next of kin or someone else nominated by the person—
 - (i) that the relevant person is detained under this part and where the person is detained; and
 - (ii) of the things mentioned in paragraph (a); and
 - (iii) of how to obtain information about the relevant person, including who to contact to obtain the information; and
 - (c) make any reasonably necessary arrangements in the interest of the person's welfare.

- (2) Subsection (1)(c) applies subject to any direction given by the medical controller or a CBRE health officer.

39 Application to Supreme Court judge for order ending person's detention

- (1) This section applies if a relevant person has been detained under this part because of a CBR emergency.
- (2) The relevant person's lawyer or a person nominated by the relevant person (the *applicant*) may apply to a Supreme Court judge for an order ending the relevant person's detention.
- (3) The application may be made orally or in writing but if made orally can not be made in the absence of the commissioner or the commissioner's representative.
- (4) The applicant must immediately give the commissioner notice of when and where the application will be made.
- (5) The notice may be given orally or in writing, but if given orally must be put in writing as soon as practicable.
- (6) The judge—
- (a) must decide the application as quickly as possible; and
 - (b) must have regard to any submissions made by the parties to the application; and
 - (c) may make an order ending the relevant person's detention only if satisfied the person's continued detention is not reasonably necessary to prevent a serious risk to the life or health of individuals not already affected by the CBR substance involved in the CBR emergency; and
 - (d) may not order the applicant to pay the respondent's costs of the application.
- (7) The relevant person is not entitled to be present when the application is being heard.

40 Appeal

- (1) A party to a decision of the Supreme Court judge on an application for an order ending a relevant person's detention may appeal to the Court of Appeal against the decision.
- (2) If the commissioner is the appellant, the decision appealed against is stayed on the filing of the notice of appeal.
- (3) The Court of Appeal must hear and decide the appeal without delay.
- (4) If the commissioner is the appellant, the Court of Appeal may make an order—
 - (a) allowing the appeal; or
 - (b) confirming the decision appealed against and dismissing the appeal.
- (5) If the relevant person is the appellant, the Court of Appeal may make an order—
 - (a) ending the relevant person's detention; or
 - (b) confirming the decision appealed against and dismissing the appeal.
- (6) The Court of Appeal may make the other orders the court considers appropriate.
- (7) However, the Court of Appeal may not order a party other than the commissioner to pay the commissioner's costs of the appeal.

Division 6 Other provisions

41 Record of seized property to be kept

- (1) The commissioner must ensure a written record of property seized under this part is kept.
- (2) The record must include the following information—
 - (a) a description of the property, sufficient to identify it;

- (b) when and where the property was seized;
 - (c) if known, from whom the property was seized;
 - (d) if known, the name and address of the person who appears to be entitled to lawfully possess the property;
 - (e) what happened to the property after it was seized;
 - (f) if the property was destroyed—why it was destroyed;
 - (g) if the property was returned to a person under section 42—the name and address of the person and when the property was returned.
- (3) A police officer who seizes property under this part must ensure the information mentioned in subsection (2) is recorded as soon as practicable after seizing the property.
- (4) This section applies despite the *Police Powers and Responsibilities Act 2000*, chapter 21, part 2, division 3.
- (5) Also, the *Police Powers and Responsibilities Act 2000*, section 622 does not apply to a thing seized under this part.

42 Return etc. of seized property

- (1) Property seized under this part and not destroyed must be made available for return to the person lawfully entitled to possess it as soon as practicable after—
- (a) it has been found not to have been affected by the CBR substance involved in the CBR emergency; or
 - (b) any necessary decontamination of the property is completed;
- unless, after reasonable efforts, the property can not be returned to the person.
- (2) Property not claimed by a person within 60 days after the CBR emergency ends is taken to have been forfeited to the State.

Note—

Property in the possession of the police service that is forfeited to the State may be dealt with under the *Police Powers and Responsibilities Act 2000*, chapter 21, part 3.

43 Reports

- (1) The Minister must table in the Legislative Assembly a report about the CBR emergency within 6 months after the end of the emergency.
- (2) The report—
 - (a) must include—
 - (i) the nature of the CBR emergency, when and why the emergency was declared, and when it ended; and
 - (ii) if the CBR emergency was extended, why it was extended; and
 - (iii) the CBR emergency powers relied on, why they were relied on; and
 - (iv) who authorised emergency responders to exercise the CBR emergency powers relied on, who was authorised to exercise the powers, and how they were used; and
 - (v) if any CBR emergency powers were delegated under section 7A or 19(5), why, and to whom, the powers were delegated; and
 - (b) may include anything else the Minister considers appropriate.

Part 3A **Relationship between emergencies**

43A **Emergency situation**

- (1) An emergency situation may be declared to exist even though a terrorist emergency or CBR emergency has been declared to exist for all or part of the same situation.
- (2) However, the emergency situation has no effect for the area for which the terrorist emergency has been declared to exist or to the extent to which the CBR emergency has been declared to exist.
- (3) If a terrorist emergency is declared to exist for all or part of an area for which an emergency situation has been declared to exist, the emergency situation is of no effect for the area or part.
- (4) If a CBR emergency is declared to exist for all or part of a situation for which an emergency situation has been declared to exist, the emergency situation is of no effect to the extent the CBR emergency has been declared to exist.
- (5) An emergency situation is affected under subsection (2), (3) or (4) by the existence of a terrorist or CBR emergency only while the terrorist or CBR emergency is in force.

43B **Terrorist emergency**

- (1) A terrorist emergency may be declared to exist even though an emergency situation or a CBR emergency has been declared to exist for all or part of the same situation.
- (2) The declared area may be all, partly or not included in a declaration under part 2.
- (3) Subject to section 43A, the terrorist emergency and the emergency situation, or CBR emergency, operate in conjunction with each other.

43C CBR emergency

- (1) A CBR emergency may be declared to exist even though an emergency situation or terrorist emergency has been declared to exist for all or part of the same situation.
- (2) Subject to section 43A, the CBR emergency and the emergency situation, or terrorist emergency, operate in conjunction with each other.

43D Multiple appointments

- (1) Nothing in this Act prevents a person holding or being appointed to more than 1 position as commander under this Act.
- (2) In this section—
commander means any of the following—
 - (a) emergency commander;
 - (b) terrorist emergency commander;
 - (c) terrorist emergency forward commander;
 - (d) TERC commander;
 - (e) CBRE commander.

Part 3B Surveillance devices

43E Power to authorise use of surveillance device

- (1) This section applies if a commissioned officer reasonably suspects that—
 - (a) an emergency (the *relevant emergency*) involves, may involve or may lead to a serious risk to the life, health or safety of a person; and
 - (b) the use of a surveillance device will help to reduce the risk.

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- (2) The commissioned officer may authorise a police officer to use a surveillance device, in the emergency area and during the period of the relevant emergency, to assess and monitor the risk.
- (3) An authorisation given under subsection (2) is a ***surveillance device authorisation***.
- (4) The *Police Powers and Responsibilities Act 2000*, section 332(1) to (5) applies to a surveillance device authorisation as if a reference in the subsections to a surveillance device warrant were a reference to a surveillance device authorisation.
- (5) However, section 332(2) and (4) of that Act applies to a surveillance device authorisation subject to any conditions of the authorisation.
- (6) A surveillance device authorisation authorises the use of the surveillance device stated in the authorisation and any enhancement equipment for the purpose of retrieving the device and equipment.
- (7) This section does not stop a police officer from—
 - (a) using an optical surveillance device in a place where the presence of the police officer is not an offence; or
 - (b) using a listening device, in a place where the presence of the police officer is not an offence, to overhear, record, monitor or listen to a conversation, if the use is not an offence against the *Invasion of Privacy Act 1971*, section 43(1).
- (8) In this section—

emergency area means—

 - (a) if the relevant emergency is an emergency situation that has been declared to exist— the area specified for the emergency situation; or
 - (b) if the relevant emergency is a terrorist emergency—the declared area for the terrorist emergency; or

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- (c) if the relevant emergency is a CBR emergency—an area that is or may be affected by a CBR substance involved in the CBR emergency.

listening device see the *Police Powers and Responsibilities Act 2000*, schedule 6.

optical surveillance device see the *Police Powers and Responsibilities Act 2000*, section 322.

43F Surveillance device authorisation authorises use of existing device

- (1) This section applies to a surveillance device authorisation that authorises the use of a surveillance device on premises, or in or on a vehicle, object or class of vehicle or object.
- (2) The surveillance device authorisation also authorises the use of a device (an *existing device*) that is on the premises, or in or on the vehicle or object, or a vehicle or object of the class, as a surveillance device.

Example of an existing device—

a security camera

- (3) This section applies—
- (a) whether or not it is necessary to do anything to or in relation to the existing device to enable it to be used as a surveillance device; and
- (b) subject to any conditions of the surveillance device authorisation.

43G When surveillance device authorisation ends

- (1) A surveillance device authorisation for a relevant emergency ends—
- (a) if a commissioned officer revokes the authorisation—when it is revoked; or
- (b) if paragraph (a) does not apply and more than 1 emergency was declared to exist in relation to the

- situation to which the relevant emergency relates—when the last declaration ends; or
- (c) if paragraphs (a) and (b) do not apply—when the declaration for the relevant emergency ends.
- (2) If a surveillance device authorisation ends under subsection (1), the authorisation stops having effect other than to the extent it authorises—
- (a) the retrieval of the surveillance device and any enhancement equipment; and
- (b) the use of the surveillance device and any enhancement equipment for the purpose of retrieving the device and equipment.
- (3) However, after a surveillance device authorisation ends—
- (a) covert entry to a building in order to retrieve a surveillance device or any enhancement equipment is not authorised; and
- Note—*
- For retrieval warrants for surveillance devices and enhancement equipment lawfully installed under a surveillance device authorisation, see the *Police Powers and Responsibilities Act 2000*, chapter 13, part 2, division 3.
- (b) a police officer may exercise a power mentioned in subsection (2) only if a commissioned officer approves the exercise.
- (4) This section does not stop a police officer from retrieving a surveillance device and any enhancement equipment from premises if the presence of the police officer on the premises is not an offence.

43H When surveillance device authorisation must be revoked

A commissioned officer must revoke a surveillance device authorisation if the officer is satisfied that the use of a surveillance device is no longer needed to help reduce the risk mentioned in section 43E(1)(a).

43I Report about surveillance device authorisations

- (1) Within 3 months after the end of each financial year, the commissioner must give the Minister a report stating the number of surveillance device authorisations given during the financial year.
- (2) The Minister must table a copy of the report in the Legislative Assembly within 14 sitting days after the Minister receives the report.

43J Register of surveillance device authorisations

- (1) The commissioner must keep a register of surveillance device authorisations.
- (2) The register must record the following information for each surveillance device authorisation—
 - (a) the date and time the authorisation was given;
 - (b) the name of the commissioned officer who gave the authorisation;
 - (c) the grounds on which the authorisation was given.

Part 4 General provisions

44 Protection of employment rights

- (1) A person must not dismiss from employment an employee who is or was absent from the employee's employment because of a relevant direction.

Maximum penalty—40 penalty units or 1 year's imprisonment.

- (2) This Act shall not be construed to prejudice any right of action by any person in respect of wrongful dismissal.
- (3) For the purpose of calculating the entitlement of any employee to long service leave, sick leave, recreation leave or other benefits to which the employee is entitled, the continuity

of service of the employee is taken not to have been broken only by the employee's absence from the employment because of a relevant direction or the exercise by an emergency responder of powers under part 3.

- (4) An employee who is absent from the employee's employment because of a relevant direction is entitled to be paid by the person's employer wages payable for the period of the employee's absence during normal working hours.
- (5) Subsections (1) to (4) apply whether or not the employer in question has consented to the absence of the employee in the circumstances set out therein.
- (6) In this section—

relevant direction means either of the following, whether given under part 2, 2A or 3—

 - (a) a resource operator direction;
 - (b) a help direction.

45 Compensation for personal injury

Any person, other than a police officer, who is acting under a resource operator direction or a help direction is taken, for the *Workers' Compensation and Rehabilitation Act 2003*, to be employed by the Commissioner of the Police Service.

46 Compensation for use of, damage to or destruction of property

- (1) This section applies to a person (*claimant*)—
 - (a) whose property—
 - (i) is surrendered under a resource surrender direction given under part 2, 2A or 3; or
 - (ii) is damaged or destroyed through the use of powers under this Act in an emergency situation or a CBR emergency; and

-
- (b) who claims to have suffered financial loss because of the use, damage or destruction of the property.
 - (2) The claimant, or another person authorised by the claimant for the purpose, may apply in writing to the Minister for compensation for the financial loss.
 - (3) The claimant must make the application and give the Minister details of the financial loss within—
 - (a) for a claim relating to an emergency situation—28 days after the day the declaration of the emergency situation is revoked; or
 - (b) for a claim relating to a terrorist emergency—28 days after the day the terrorist emergency ends; or
 - (c) for a claim relating to a CBR emergency—3 months after the day the CBR emergency ends.
 - (4) The Governor in Council may either approve an ex gratia payment to the claimant of such amount as the Governor in Council considers appropriate, or may reject the application for compensation.
 - (5) Compensation payable under this section shall be paid from the consolidated fund (which is hereby to the necessary extent appropriated accordingly).

47 Protection from liability

- (1) Liability at law does not attach to the State, a Minister or an official because of anything done or omitted to be done under this Act in good faith and without negligence.
- (2) In this section—

official means—

 - (a) an ambulance controller; or
 - (b) the CBRE commander; or
 - (c) the chief veterinary officer; or
 - (d) an emergency responder; or

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- (e) a fire controller; or
- (f) the emergency commander; or
- (g) a medical controller; or
- (h) a person acting under a help direction or a resource operator direction; or
- (i) a terrorist emergency commander; or
- (j) a terrorist emergency forward commander; or
- (k) a TERC commander; or
- (l) the commissioner to the extent the commissioner exercises the powers of a person mentioned in paragraph (i), (j) or (k); or
- (m) the deputy commissioner to the extent the deputy commissioner exercises the powers of a person mentioned in paragraph (i), (j) or (k); or
- (n) a police officer acting on the instructions of a person mentioned in paragraph (f), (i), (j), (k), (l) or (m); or
- (o) a police officer mentioned in section 8AF(3), definition *relevant matters*, paragraph (h) or 8AN(3), definition *relevant matters*, paragraph (j).

47A Proceedings for offences

- (1) An offence against this Act, other than against section 8AG(6), 8AH(3), 8AI(3) or 8AJ(4), is a summary offence.

Note—

An offence against section 8AG(6), 8AH(3), 8AI(3) or 8AJ(4) is a crime.

- (2) Despite the *Justices Act 1886*, section 52(1), a proceeding for an offence against section 8AG(1), 8AH(1), 8AI(1) or 8AJ(1) may be started within 2 years after the matter of complaint arose if—
- (a) in relation to the matter of complaint—

-
- (i) for a proceeding for an offence against section 8AG(1)—a proceeding was previously started for an offence against section 8AG(6); or
 - (ii) for a proceeding for an offence against section 8AH(1)—a proceeding was previously started for an offence against section 8AH(3); or
 - (iii) for a proceeding for an offence against section 8AI(1)—a proceeding was previously started for an offence against section 8AI(3); or
 - (iv) for a proceeding for an offence against section 8AJ(1)—a proceeding was previously started for an offence against section 8AJ(4); and
- (b) the proceeding has been discontinued, or is to be discontinued, by the Attorney-General or the director of public prosecutions.

47B Use of information obtained under Act

- (1) Any information obtained under this Act, including, for example, information obtained under an information requirement under part 2, division 3 may be recorded, retained or used for the purpose of performing any function of the police service.
- (2) Subsection (1) applies despite any provision of an Act that restricts the recording, retention or use of the information, unless the Act expressly overrides this section.

Notes—

- 1 For the functions of the police service, see the *Police Service Administration Act 1990*, section 2.3.
- 2 For the restrictions on the disclosure of information by State police officers and other persons, see the *Police Service Administration Act 1990*, section 10.1.

47C Use of particular evidence in proceedings

- (1) This section applies if—

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- (a) a person complied with a requirement under section 8AZE or 8PAB to provide access information for a digital device; and
 - (b) particular device information from the digital device (the *prescribed information*) was accessible, or could be read, only by using the access information; and
 - (c) a criminal proceeding is started in relation to the person; and
 - (d) the criminal proceeding does not relate to—
 - (i) an emergency situation that, under section 5, was declared to exist; or
 - (ii) a terrorist emergency.
- (2) The prescribed information is not admissible in evidence against the person in the criminal proceeding, unless the proceeding relates to—
- (a) an indictable offence for which the maximum penalty is at least 7 years imprisonment; or
 - (b) an offence against the Criminal Code, section 218B.
- (3) This section applies despite section 47B.

48 Evidentiary provisions

In a proceeding for the purpose of this Act—

- (a) it shall not be necessary to prove the appointment of the emergency commander, the terrorist emergency commander, the terrorist emergency forward commander, the TERC commander, the CBRE commander, a police officer or anyone else authorised under part 3 to do any act or take any proceeding;
- (b) a signature purporting to be that of a person mentioned in paragraph (a) is taken to be the signature it purports to be until the contrary is proved;
- (c) a document purporting to be a copy of a certificate declaring an emergency situation pursuant to section 5

shall, upon its production in that proceeding be evidence and in the absence of evidence to the contrary, conclusive evidence of that certificate and of the matters contained therein;

- (d) a document purporting to be a copy of a terrorist emergency certificate signed by a terrorist emergency forward commander under section 8G(4) is, on being produced in the proceeding, evidence of that certificate and of the matters stated in the certificate;
- (e) a document purporting to be a copy of a terrorist emergency evacuation certificate signed by a TERC commander under section 8GA(4) is, on being produced in the proceeding, evidence of that certificate and of the matters stated in the certificate;
- (f) a certificate signed by the CBRE commander and stating any of the following is evidence of what it states—
 - (i) on a stated day and at a stated time the CBRE commander declared a CBR emergency;
 - (ii) on a stated day and at a stated time the period of the CBR emergency was extended beyond the first 24 hours of the emergency;
 - (iii) on a stated day and at a stated time the CBRE commander delegated a stated power to a stated person;
 - (iv) on a stated day and at a stated time the CBRE commander authorised a stated emergency responder or a stated class of emergency responder to exercise a stated power under part 3;
 - (v) on a stated day and at a stated time a stated police officer seized stated property from a stated person or a stated place;
- (g) a certificate signed by any of the following and stating a stated person was authorised to exercise a stated power and when the person was authorised to exercise the power is evidence of what it states—

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- (i) an ambulance controller;
- (ii) a fire controller;
- (iii) a medical controller;
- (iv) the chief veterinary officer;
- (h) a certificate signed by a medical controller and stating a stated biological or radiological substance was involved in a stated CBR emergency is evidence of what it states;
- (i) a certificate signed by a fire controller and stating a stated chemical substance was involved in a stated CBR emergency is evidence of what it states;
- (j) the authority of an emergency responder to exercise a power under part 3 must be presumed, unless the contrary is proved.

49 Application of Police Powers and Responsibilities Act 2000 to a direction given by a police officer under this Act

The *Police Powers and Responsibilities Act 2000* applies as if a direction given by a police officer under this Act were a direction given under that Act.

50 Powers unaffected by failure to comply with formal provision

A failure to comply with any of the following provisions in relation to an emergency has no effect on the exercise of powers in relation to the emergency—

- (a) for an emergency situation declared to exist under section 5—section 5(3), 8AAA(2) or (4), 8AE(4)(b), 8AT or 8AW(2);
- (b) for a terrorist emergency—section 8AAA(2) or (4), 8AE(4)(b), 8G(4) or (6) to (8), 8GA(4) or 8J;
- (c) for a CBR emergency—section 12(5).

Part 5

Transitional provisions for Police Powers and Responsibilities and Other Legislation Amendment Act 2020

51 Definitions for part

In this part—

amending Act means the *Police Powers and Responsibilities and Other Legislation Amendment Act 2020*.

former, in relation to a provision, means as in force from time to time before the provision was amended by part 8 of the amending Act.

52 Saving of former provisions

- (1) Former sections 8AZE and 8AZF continue to apply, despite the commencement of part 8 of the amending Act, in relation to a requirement imposed under former section 8AZE(2) before the commencement.
- (2) Former sections 8PAB and 8PAC continue to apply, despite the commencement of part 8 of the amending Act, in relation to a requirement imposed under former section 8PAB(2) before the commencement.

53 Declaratory provision about effect of amending Act

- (1) This section applies for deciding, after the commencement, a matter to which a provision of former part 2 or 2A applies.
- (2) The amendment of the former provision by the amending Act is to be disregarded.

Schedule Dictionary

section 4

access information, for a digital device, means information necessary for a person to access or read device information from the device.

Examples—

userid, username, passcode, password

address, for parts 2 and 2A, means current place of residence.

ambulance controller means a government ambulance officer whose duties include performing functions for the Queensland Ambulance Service as a controller of ambulance officers responding to a CBR emergency.

ambulance officer means—

- (a) a government ambulance officer; or
- (b) a non-government ambulance officer.

appropriately qualified, for an appointment, or a delegation of a function, includes having the qualifications, experience or standing appropriate for the appointment or appropriate to perform the function delegated, or, if the function is a power, to exercise the power delegated.

Example of standing in relation to a police officer—

the rank of the police officer

authorisation area see section 8AS(2).

authorised person, for an information matter, for part 2, division 3, see section 8AB.

biometric information, for a person, means—

- (a) a photograph of the person; or
- (b) the person's fingerprints.

biometric system means an electronic system—

- (a) provided or maintained by a State or the Commonwealth; and
- (b) used to collect and store data about a person's biometric information in a way that enables the data to be used to identify the person.

CBRE ambulance officer means an ambulance officer who is authorised under part 3 to exercise powers available to an ambulance officer under that part for a particular CBR emergency.

CBRE commander see section 16.

CBRE fire officer means a fire officer who is authorised under part 3 to exercise powers available to a fire officer under that part for a particular CBR emergency.

CBRE health officer means a health officer who is authorised under part 3 to exercise powers available to a health officer under that part for a particular CBR emergency.

CBR emergency see section 12.

CBR emergency powers means powers available to the CBRE commander or emergency responders under part 3.

CBRE police officer means a police officer who is authorised under part 3 to exercise powers available to a police officer under that part for a particular CBR emergency.

CBRE veterinary officer means a veterinary officer who is authorised under part 3 to exercise powers available to a veterinary officer under that part for a particular CBR emergency.

CBR substance means—

- (a) a chemical, biological or radiological substance; or
- (b) the effect of a chemical, biological or radiological substance.

chief veterinary officer means a veterinary surgeon under the *Veterinary Surgeons Act 1936* employed to perform functions as the chief veterinary officer for the department in which the *Biosecurity Act 2014* is administered.

commissioned officer means any police officer of or above the rank of inspector.

commissioner means the commissioner of the Queensland Police Service.

critical infrastructure means a physical facility, supply chain, information technology or communication network, if the destruction of or damage to the facility, chain, technology or network, or its unavailability for an extended period, would—

- (a) put at risk public health, safety or confidence in Queensland or elsewhere in Australia; or
- (b) have a significant impact on the economic wellbeing of the State, another State or the Commonwealth; or
- (c) impede the continuity of government or the provision of government services in Queensland or elsewhere in Australia; or
- (d) affect national security.

declared area see section 8G(1).

declared evacuation area see section 8GA(2).

decontamination power means the power described in section 28.

deputy commissioner means an executive officer within the Queensland Police Service holding rank as deputy commissioner.

destroy, biometric information or data about biometric information, includes—

- (a) delete an electronic copy of the information or data; and
- (b) end the way in which the information or data may be accessed electronically.

detention power means the power under section 32 to detain a person.

device see the *Police Powers and Responsibilities Act 2000*, section 322.

device information, from a digital device, means—

-
- (a) information stored on the device; or
 - (b) information accessed, communicated or distributed by using the device, including by using an application on the device.

Examples—

- images stored on a computer
- location data stored on or sent from a mobile phone
- emails or text messages sent from a smart phone
- messages or videos distributed from a social media application on a tablet computer

digital device—

- (a) means a device on which information may be stored or accessed electronically; and
- (b) includes a computer, memory stick, portable hard drive, smart phone and tablet computer.

disclosure notice, for part 2, division 3, see section 8AL(2).

disclosure recipient, for part 2, division 3, see section 8AD.

emergency, other than for part 3, means—

- (a) an emergency situation that, under section 5, has been declared to exist; or
- (b) a terrorist emergency; or
- (c) a CBR emergency declared under section 12.

emergency commander see section 5(1).

emergency responder means—

- (a) until a CBR emergency is declared, a person who is—
 - (i) a government ambulance officer; or
 - (ii) a government fire officer; or
 - (iii) a government health officer; or
 - (iv) a State police officer; or
 - (v) a veterinary officer; or
- (b) after a CBR emergency is declared, a person who is—

- (i) a CBRE ambulance officer; or
- (ii) a CBRE fire officer; or
- (iii) a CBRE health officer; or
- (iv) a CBRE police officer; or
- (v) a CBRE veterinary officer.

emergency situation means—

- (a) any explosion or fire; or
- (b) any oil or chemical spill; or
- (c) any escape of gas, radioactive material or flammable or combustible liquids; or
- (d) any accident involving an aircraft, or a train, vessel or vehicle; or
- (e) any incident involving a bomb or other explosive or a firearm or other weapon; or
- (f) any impact of a naturally occurring event such as a flood or a landslide; or
- (g) any other accident or incident;

that causes or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment, and includes a situation arising from any report in respect of any of the matters referred to in paragraphs (a) to (g) that if proved to be correct would cause or may cause a danger of death, injury or distress to any person, a loss of or damage to any property or pollution of the environment.

emergency situation certificate see section 5(3).

emergency situation officer means—

- (a) the emergency commander; or
- (b) a police officer acting on the emergency commander's instructions.

employer, of a person, for part 2, division 3, see section 8AA.

enhancement equipment see the *Police Powers and Responsibilities Act 2000*, section 322.

explosive, for part 2, division 2, includes a thing that a police officer reasonably believes is an explosive.

extraordinary emergency authorisation means an authorisation given under section 8AS(2).

extraordinary emergency power means the power of an emergency situation officer under—

- (a) section 8AZA(2); or
- (b) section 8AZB(2) or (3); or
- (c) section 8AZC(2) or (3); or
- (d) section 8AZD(2) or (4); or
- (e) section 8AZE(2) or (6).

fire controller means a government fire officer whose duties include performing functions for the Queensland Fire and Emergency Service as a controller of fire officers responding to a CBR emergency.

fire officer means—

- (a) a government fire officer; or
- (b) a non-government fire officer.

give, in relation to information, for part 2, division 3, see section 8AA.

government ambulance officer means an ambulance officer under the *Ambulance Service Act 1991*.

government doctor means a person—

- (a) registered under the Health Practitioner Regulation National Law to practise in the medical profession, other than as a student; and
- (b) who is employed in—
 - (i) the department which administers the *Public Health Act 2005*; or
 - (ii) a Hospital and Health Service.

government fire officer, means a fire officer under the *Fire and Emergency Services Act 1990*.

government health officer means—

- (a) a government doctor; or
- (b) a government nurse.

government nurse means a person—

- (a) registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the nursing profession, other than as a student; and
 - (ii) in the registered nurses division of that profession; and
- (b) who is employed in—
 - (i) the department which administers the *Public Health Act 2005*; or
 - (ii) a Hospital and Health Service.

health officer means—

- (a) a government health officer; or
- (b) a non-government doctor; or
- (c) a non-government nurse.

help direction see section 8.

Hospital and Health Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*, section 17.

identity power means the power described in section 27(1).

information, for part 2, division 3, see section 8AA.

information matter, for part 2, division 3, see section 8AA.

information requirement, for part 2, division 3, see section 8AE(3).

involved, in relation to a CBR substance, includes—

- (a) likely to be involved; and

(b) likely to have been involved.

manager, of a person, for part 2, division 3, see section 8AA.

medical controller means a government health officer whose duties include performing functions as a controller of health officers responding to a CBR emergency, employed in—

- (a) the department which administers the *Public Health Act 2005*; or
- (b) a Hospital and Health Service.

monitor means a monitor under the *Crime and Corruption Act 2001* or the *Police Powers and Responsibilities Act 2000*.

non-government ambulance officer means a person performing functions of an ambulance officer for an ambulance service other than the Queensland Ambulance Service.

non-government doctor means a person—

- (a) registered under the Health Practitioner Regulation National Law to practise in the medical profession, other than as a student; and
- (b) who is not a government doctor.

non-government fire officer means a person performing functions of a fire officer for a fire authority, brigade or service other than the Queensland Fire and Emergency Service.

non-government nurse means a person—

- (a) registered under the Health Practitioner Regulation National Law—
 - (i) to practise in the nursing profession, other than as a student; and
 - (ii) in the registered nurses division of that profession; and
- (b) who is not a government nurse.

non-State police officer means a member of a police force or service of the Commonwealth or another State.

nurse means—

- (a) a government nurse; or
- (b) a non-government nurse.

period, of an emergency situation, means the period—

- (a) starting when the emergency situation is declared to exist under section 5(1); and
- (b) ending when the declaration is revoked under section 5(4).

police officer means—

- (a) a non-State police officer; or
- (b) a State police officer.

premises includes a building or structure or any part thereof, any tent, caravan, railway rolling stock, motor vehicle or other vehicle, ship, aircraft, vessel, messuage, land, easement and tenement of any tenure.

property destruction power means the power described in section 26(1).

property seizure power means the power described in section 25(1).

reasonably believes means believes on grounds that are reasonable in the circumstances.

reasonably suspects means suspects on grounds that are reasonable in the circumstances.

relevant emergency see section 43E(1)(a).

relevant officer, for part 2, division 3, see section 8AL(4).

resource means any animal or anything which may provide aid or be of assistance in any emergency situation.

resource operator direction see section 8.

resource surrender direction see section 8.

search see the *Police Powers and Responsibilities Act 2000*, schedule 6.

senior officer means—

- (a) a commissioned officer; or
- (b) a police officer of the rank of senior sergeant who has been approved by the commissioner as having the qualifications, experience or standing appropriate to make or revoke a declaration under section 5.

State police officer means a police officer under the *Police Service Administration Act 1990*.

surveillance device see the *Police Powers and Responsibilities Act 2000*, section 322.

surveillance device authorisation see section 43E(3).

TERC commander means a person appointed as a TERC commander under section 8BA(2).

Note—

TERC commander stands for terrorist emergency reception centre commander.

terrorist act see the *Police Powers and Responsibilities Act 2000*, section 211.

terrorist emergency means a terrorist emergency declared under section 8G(1).

terrorist emergency certificate see section 8G(4).

terrorist emergency commander means a person appointed as a terrorist emergency commander under section 8A(2).

terrorist emergency evacuation certificate see section 8GA(4).

terrorist emergency forward commander means a person appointed as a terrorist emergency forward commander under section 8A(4) or 8B.

terrorist emergency officer—

- (a) for part 2A, division 2, subdivision 1—see section 8K; or
- (b) for part 2A, division 2, subdivision 1A—see section 8PA.

terrorist emergency powers means the powers conferred under part 2A for a terrorist emergency on—

- (a) the terrorist emergency forward commander or a police officer acting on the commander's instructions; or

Note—

See section 8E(2) to (4) and part 2A, division 2, subdivision 1.

- (b) the TERC commander or a police officer acting on the commander's instructions.

Note—

See section 8FA(2) to (4) and part 2A, division 2, subdivision 1A.

terrorist emergency reception centre means a place used, or to be used, to receive, identify and assess a person who—

- (a) is or may be a victim of, or witness to, a terrorist act; or
- (b) has evacuated, or may need to evacuate, from a place that is, or is close to, a terrorist emergency site.

terrorist emergency site see section 8A(1)(b).

treatment power means the power described in sections 29(2) and 30(3).

unauthorised person, for an information matter, for part 2, division 3, see section 8AC.

use, of a surveillance device, see the *Police Powers and Responsibilities Act 2000*, section 322.

veterinary officer means a public service employee who is a veterinary surgeon under the *Veterinary Surgeons Act 1936*.

work-related information, for a person of whom an information requirement is made, for part 2, division 3, see section 8AA.